

*Q. 15*

## In the Privy Council.

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*In the Matter of* THE ENDOWED SCHOOLS ACTS, 1869, 1873 and 1874.

AND

*In the Matter of* A SCHEME FOR THE ADMINISTRATION OF THE FOUNDATION KNOWN AS THE GRAMMAR SCHOOL IN THE BOROUGH OF COLCHESTER.

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APPELLANTS' AND RESPONDENTS' CASES, AND  
JOINT APPENDIX.

SHEPHEARDS,

31 & 32 Finsbury Circus, E.C.,

*Solicitors for the Appellants.*

FARRER & CO.

66 Lincoln's Inn Fields, W.C.,

*Solicitors for the Respondents.*

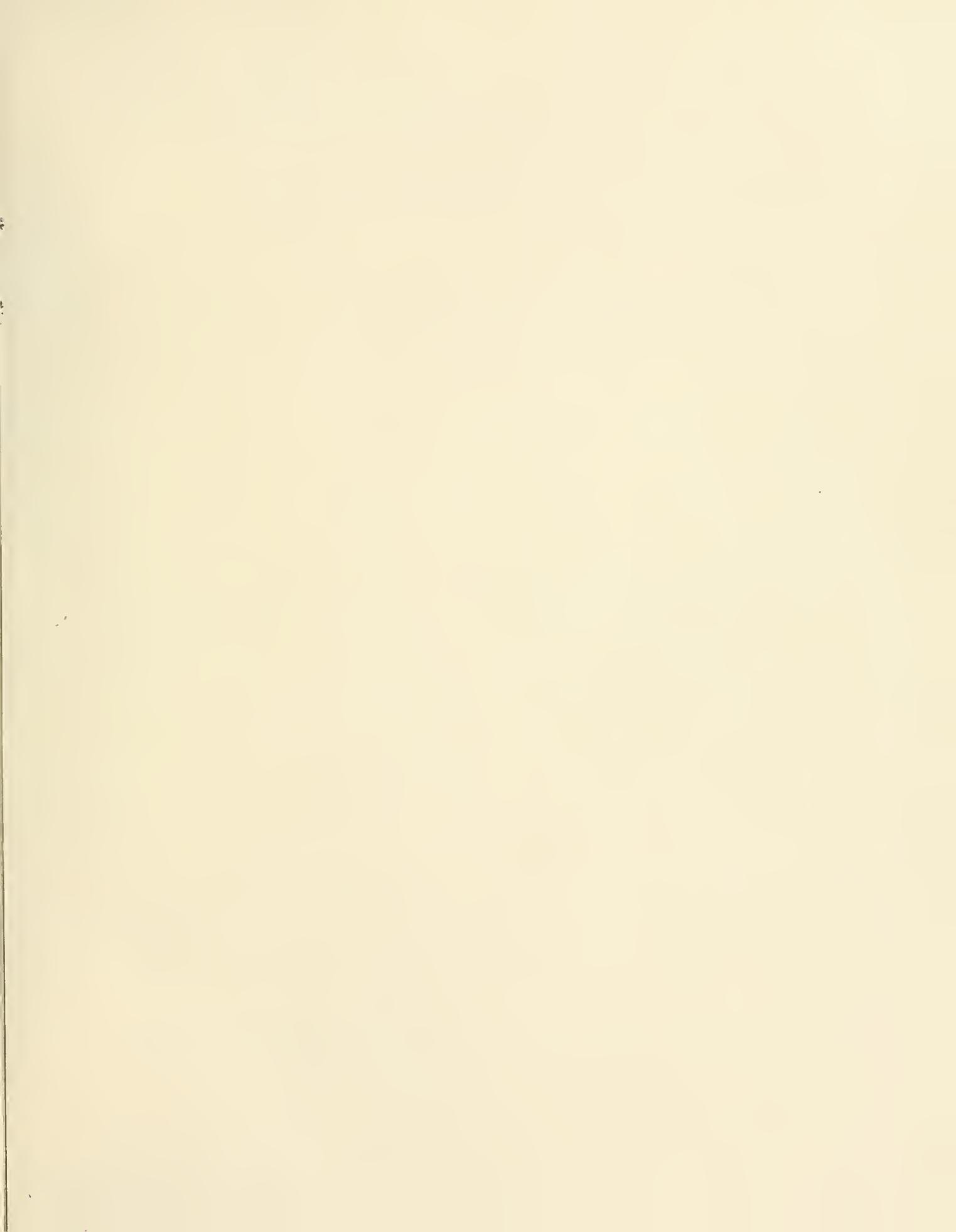
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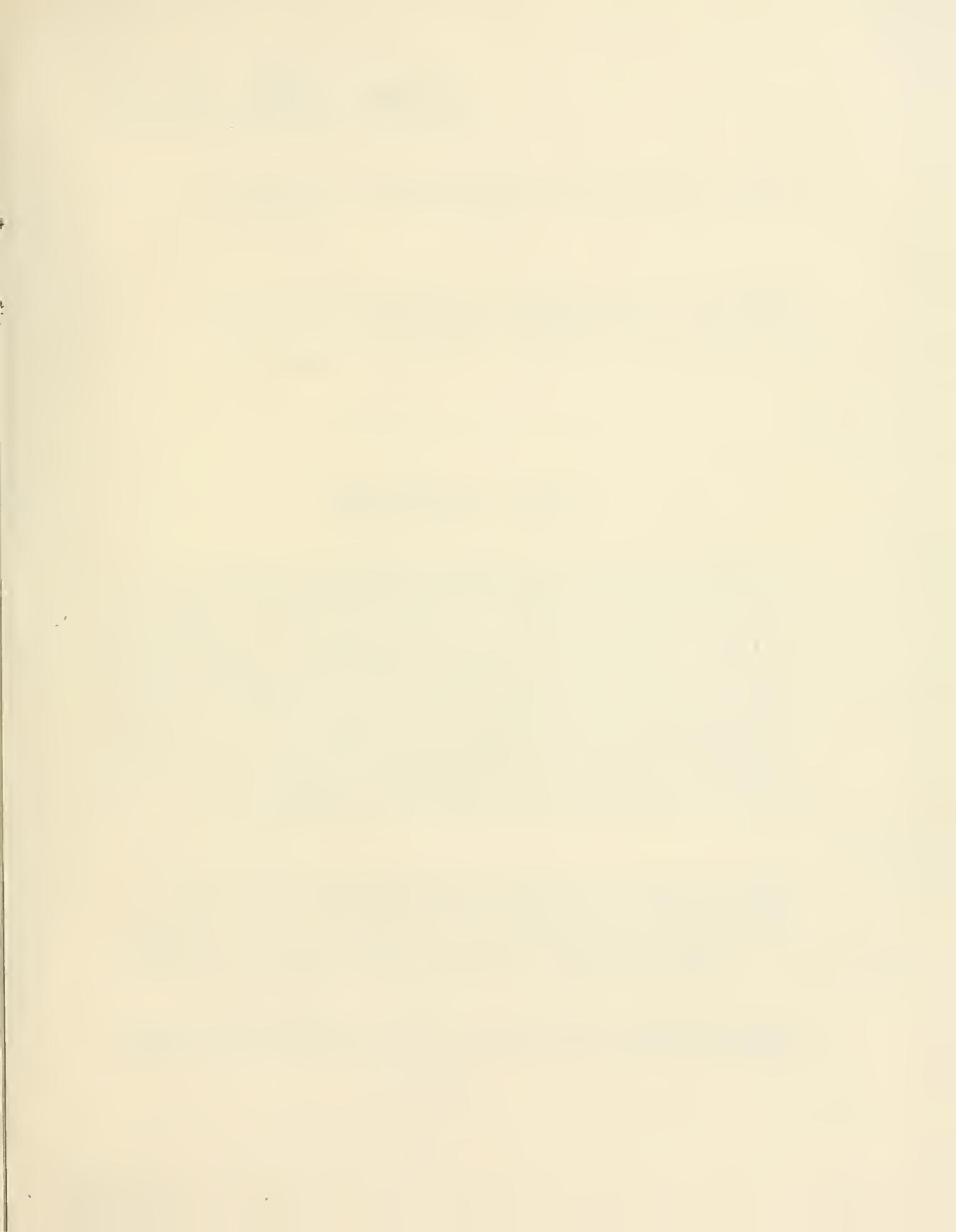
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# In the Privy Council.

*In the Matter of* THE ENDOWED SCHOOLS ACTS, 1869, 1873,  
and 1874,

AND

*In the Matter of* a Scheme for the Administration of the Foundation  
known as the GRAMMAR SCHOOL, in the BOROUGH of  
COLCHESTER.

## Petitioners' Case.

1. The Petition to which this case relates is a Petition to Her Majesty in Council presented on the 4th day of April 1896 by Herbert Frederick Nash of 23 Wimpole Lane in the Borough of Colchester and Walter Edmund Thorrington of 133 Wimnick Road in the same Borough against a Scheme for the administration of the Foundation known as the Grammar School in the Borough of Colchester in the County of Essex purporting to be made by the Charity Commissioners in conformity with and in pursuance of the powers given by the Endowed Schools Acts 1869, 1873 and 1874 which Scheme was approved by the Commissioners on the 18th of January 1895 and submitted to the Lords of the Committee of Her Majesty's Privy Council on Education on the 1st of February 1895 and approved by the Lords of the said Committee on the 2nd of February 1896 and published as provided by the said Acts on the 20th day of February 1896. A print of the said Scheme is set out in the Appendix at page 23.

Appendix, page 23.

2. The said Scheme was settled in its present form in consequence of and in accordance with a decision of the Charity Commissioners given on or about the 31st of March 1894 that the endowment in question fell within the provisions of Section 19 of the Endowed Schools Act 1869. The said decision is expressed in a letter from the Secretary of the Charity Commission to the Town Clerk of Colchester which is set out in the Appendix at page 22.

Appendix, pag 22.

3. The Petitioners are inhabitants and ratepayers of the Borough of Colchester and the parents of sons who at the date of the Scheme and of the Petition were and had for some time past been scholars attending the said

Grammar School. The Petitioners being directly affected by the Scheme feel aggrieved by the said decision and by the Scheme as founded thereon.

4. The Petitioners contend and humbly submit (1) That the scholars educated by the said endowment are not required by any of the express terms of the original instrument of foundation or by any of the express terms of any Statutes or Regulations made by the founder or under his authority in his lifetime or within 50 years after his death to learn or to be instructed according to the doctrines or formularies of any particular Church sect or denomination (2) That even if this contention be ill founded no such express terms had been observed down to the commencement of the Endowed Schools Act 1869 <sup>10</sup> (2nd of August 1869). The foundation does not fall within the provisions of the 1st sub-section of the said section 19. The section is set out in the Appendix page 82.

5. The original foundation was created by a Charter of King Henry VIII. dated the 12th of November 1539 a translation of which is set out in the Appendix page 7. No statutes or regulations were ever made by King Henry VIII. or under his authority or under the authority of the said Charter and there are no terms in the said Charter requiring the scholars of the said foundation to learn or to be instructed according to the doctrines or formularies of any particular Church sect or denomination. So far therefore as the original <sup>20</sup> foundation is concerned the Petitioners contend and humbly submit that the conditions necessary to bring the foundation within the 2nd sub-section of the said section are not satisfied.

6. The said Charter of King Henry VIII. was surrendered and a new Charter was granted by Queen Elizabeth dated the 6th of July 1584 a translation of which is set out in the Appendix page 9. It is provided in the said Charter that the Bishop of London and the Dean of Saint Paul's of London and their successors for the time being might and should be able to make statutes and ordinances in writing for the governance and direction of the pedagogue and scholars of the School and that the School and the <sup>30</sup> pedagogue and scholars of the same should be under the visitation and correction of the Bishop of London and his successors for the time being.

7. The first statutes of the School were framed by the Bishop of London and the Dean of St Paul's in 1586. The said statutes are set out in the Appendix page 14 and direct among other things as follows:

- (1) The Schoolmaster shall be a Master of Arts sufficiently able to instruct in Grammar Latin and Greek both in prose and verse and of a sound and good religion void of all papistry chosen according to the foundation of the town of Colchester.
- (2) The Schoolmaster or the Usher by his appointment in his absence <sup>40</sup> before he begin to teach in the schoolhouse where the School shall be

Appendix, page 82.

Appendix, page 7.

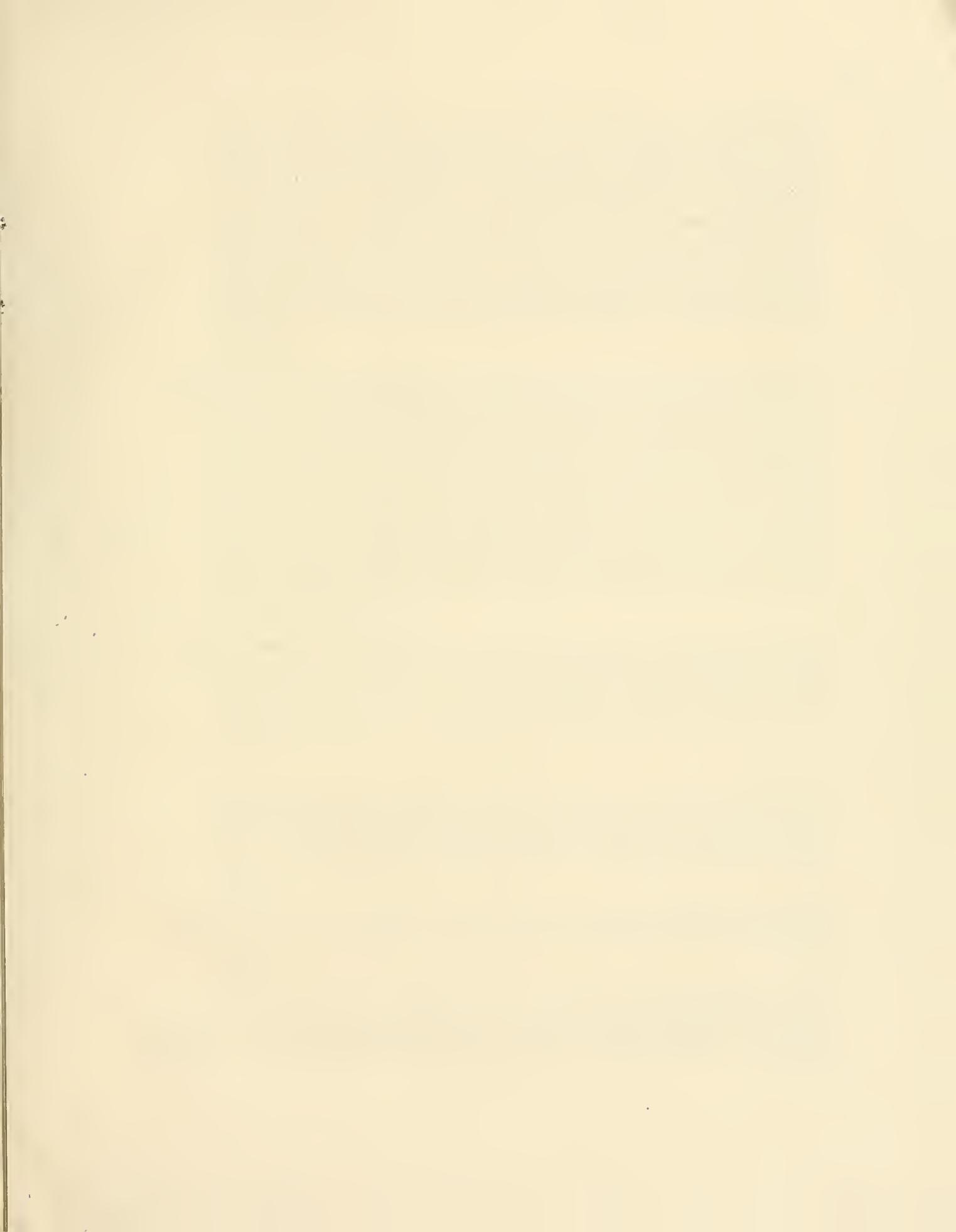
Appendix, page 82.

Appendix, page 9.

Appendix, page 13.

Appendix, page 13.

Appendix, page 14.





kept and every night before the scholars shall depart shall say the Lord's Prayer the Confession of Sins set forth in the beginning of the Book of Common Prayer the Articles of Faith and the Ten Commandments of Almighty God with a short prayer at the end for the increase of learning to his scholars one other for the Queen's Majesty and for the good estate of the towne of Colchester and all the scholars to say these prayers after him openly and audibly which prayers shall be drawn up by the advice and direction of the Lord Bishop of London or the Dean of St Paul's and being made and published under one of their hands shall continually be used without alteration and a table of them being fair written out shall be up in the School.

10 (3) The Schoolmaster shall every Sunday (except he have some reasonable lett) cause all the scholars to go with him to the Church within the said town where the general sermon is made to the sermon if there be any such and there to continue decently and conveniently in such place as shall be appointed for his scholars to be in his sight during the time of sermon and on the Monday morning following to examine the same scholars how they have profited by the sermon. The Schoolmaster shall also have regard that all his scholars and himself shall go to the public prayers every Sunday and holiday at morning and evening prayers and there shall continue the whole time of common prayer and see that his scholars shall well and reverently demean themselves there.

20 (4) The Schoolmaster shall one day in the weeke read unto his scholars publicly in the School Mr. Nowell's Catechism appointed by the injunctions to be read in every School either in Latin or Greek according to the capacity of his scholars and shall in such sort examine them in it as they may out of the same be able to yield a good account of their faith.

30 (5) The Schoolmaster and Usher shall with so many of his scholars as shall by the publick preacher of the town if there be any so found able to yield a sufficient account of their faith and religion the first Sunday of every quarter of the year present himself with them to be partakers of the Lord's table in that parish church which shall be appointed to the School.

(6) The bailiffs of the said towne for the time being shall from time to time oversee the School and cause the laws and orders to be duly observed.

40 8. No other statutes or regulations were made by Queen Elizabeth or by the Bishop of London and the Dean of St. Paul's or their successors under the authority of Queen Elizabeth or her said Charter within the lifetime of Queen

Appendix, page 19.

Elizabeth or within 50 years after her death. But the 3rd of the said statutes was supplemented by an Order made on the 11th of July 1638 by Dr Aylett Commissary to William then Lord Bishop of London and Official of the Archdeaconry of Colchester whereby it was ordered that while there should be no general sermon the Schoolmaster for the fulfilment of the intent of the aforesaid Order should cause all his scholars every Sunday and Holy Day to go with him to the service and sermon made at the parish church whereto the school belongs and there see them quietly and soberly to behave themselves during the time of Divine Service and sermon and should examine them at times convenient after their return what they have borne away of such sermon <sup>10</sup> as they shall hear.

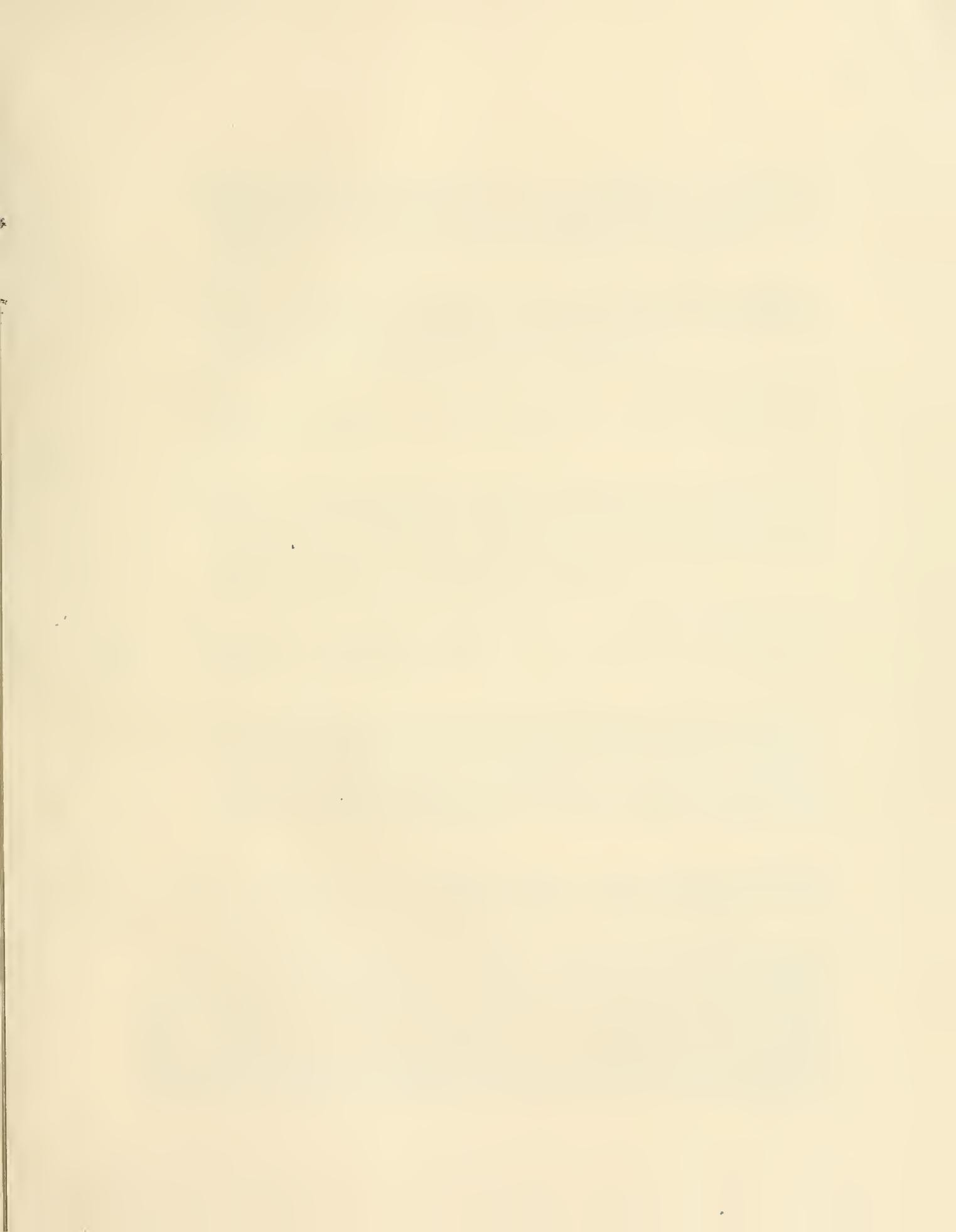
Appendix, page 15.

9. The Petitioners contend and humbly submit that none of the statutes of 1586 by their express terms require the scholars of the Colchester Grammar School to learn or be instructed according to the doctrines or formularies of any particular Church sect or denomination. With regard to the provision that the Schoolmaster say the Articles of Faith every day before he begin to teach and every night before the scholars depart the Petitioners humbly submit that the reference is to the Apostles' Creed or Confession of Faith and not to the 39 Articles of Religion. With regard to the provision as to the general sermon it is a contingent provision and not an express requirement. It appears by the order <sup>20</sup> of the 11th of July 1638 that there was no general sermon at that date and it does not appear whether there ever was a general sermon. At the time the said statutes were made in 1586 and long after that date every person was by law required to attend their parish church or chapel accustomed under penalty in case of default. And with regard to Mr. Nowell's Catechism that as was pointed out by the Lord Chancellor in delivering the judgment of the Judicial Committee of the Privy Council in the Christ's Hospital Case reported in 15 Appeal Cases 172 at page 182 is not a formulary of the Church of England. It was written about the year 1570 by Mr. Nowell an eminent Protestant divine who was a Dean of St. Paul's holding Calvinistic and Puritan opinions and was founded on the <sup>30</sup> Catechisms of Poinet and Calvin.

Appendix, page 19.

10. The Petitioners further contend and humbly submit that the terms of the statutes of 1586 were not observed down to the commencement of the Endowed Schools Act 1869. The said statutes were in 1844 formally repealed by the then Bishop of London and Dean of St. Paul's and new statutes and ordinances for the government of the School were published and declared by the said Bishop and Dean on the 11th of July in that year. These new statutes are set out in full in the appendix page 19. The 1st 2nd 4th 5th 6th 10th 14th and 16th of the said statutes are as follow:—

- (1) That the statutes ordinances and constitutions published and declared <sup>40</sup> by the then Bishop of London and the Dean of St. Paul's in the 26th year of the reign of Queen Elizabeth shall be repealed.





(2) That the Schoolmaster of the said School be a graduate of one of the English Universities in Holy Orders but not possessed of any benefice that he be chosen according to the foundation of the Borough of Colchester and presented to the Lord Bishop of London within one month from the day of his election for his Lordship's license.

(4) That morning and evening prayers shall be daily read by the Master before the business of the School commences and when it is finished according to a form to be approved of by the Bishop and that a short portion of the Holy Scripture be read at such prayers.

10 (5) That the scholars shall attend church on Sundays with their respective parents or friends but that the boarders if any shall accompany the Master to church.

(6) That the scholars shall receive instruction two days at least in the week in the Holy Scriptures and in the doctrines of the Church of England as set forth in the Articles of Religion the Catechism and the Book of Common Prayer and that every scholar who shall have attained the age of sixteen years shall after due preparation by the Master be presented to the Bishop for confirmation.

(10) That the free scholars shall be chosen by the Mayor Aldermen and Council from among the children of the inhabitants of the Borough at large.

20 (14) That there shall be held immediately before the summer or winter holidays every year an examination of the scholars in all the various branches of instruction especially in those which pertain to religion. Such examinations shall be conducted by one or more clergymen appointed by the Archdeacon of Colchester who shall be requested himself to preside at such examination and the Mayor Aldermen and Council shall be invited to attend.

(16) That the Mayor of Colchester together with the senior Alderman and the Rural Dean shall from time to time oversee the said School and cause these statutes to be observed in every article.

30 11. The Petitioners contend and humbly submit that none of the express terms of the statutes of 1586 (if there are any such terms) which require the scholars to learn or to be instructed according to the doctrines or formularies of any particular Church sect or denomination are repeated in the statutes of 1844. The Master is no longer required to say morning and evening the Articles of the Faith or to cause all the scholars every Sunday to go with him to any church or sermon or to examine them in the matter of any sermon or to

See Affidavit of  
Messrs Francis,  
Blaxill, and Fenton.  
Appendix, pages  
37-41, and 72 and 73.

read to the scholars Mr. Nowell's Catechism or to examine them in it. From and after the publication of the statutes of 1844 such of the terms of the statutes of 1586 as had not already fallen into disuse ceased to be observed.

12. Assuming (which the Petitioners submit would be contrary to the fact) that any of the provisions of the statutes of 1844 relating to denominational education are a repetition of the terms of the statutes of 1586 it is the fact that these latter provisions so far as they compulsorily require all the scholars to learn or be instructed according to the doctrines or formularies of the Church of England had themselves in their turn ceased to be observed at and before the commencement of the Endowed Schools Act 1869. The fifth of 10 the said statutes of 1844 was not interpreted or observed as obliging the scholars to attend the service of the Church of England or of any special Church on Sundays and no restrictions were placed on the discretion of the parents or friends of the scholars as to that matter. And it was not the fact that the scholars received instruction two days at least in the week in the doctrines of the Church of England as set forth in the Articles of Religion the Catechism and in the Book of Common Prayer or that every scholar who had attained the age of sixteen years was prepared by the Master for confirmation or presented to the Bishop for confirmation. The facts with regard to these matters are stated in the Affidavits of Edward Kershaw Francis George Alfred 20 Blaxill and Francis Fenton set out in the Appendix pages 37 to 41 and pages 72 and 73.

Appendix, pages  
37-41, and 72 and 73.

See Affidavits of  
Messrs Francis, Blaxill  
and Fenton, Appendix,  
pages 37-41.

13. Between the years 1865 and 1874 there were at the School a certain though not a large number of boys whose parents were known to be Non-conformists and none of such boys were required to learn or were instructed according to the doctrines or formularies of the Church of England or attended any of the services or ceremonies of that Church and this had been the practice of the School for many years for so long ago as the year 1864 as the result of an inquiry which took place before Mr. Elton one of the Assistant Endowed Schools Commissioner. Mr. Elton in his report referred to the rule that all 30 scholars should be instructed in the Catechism Articles and Prayer Book as then obsolete.

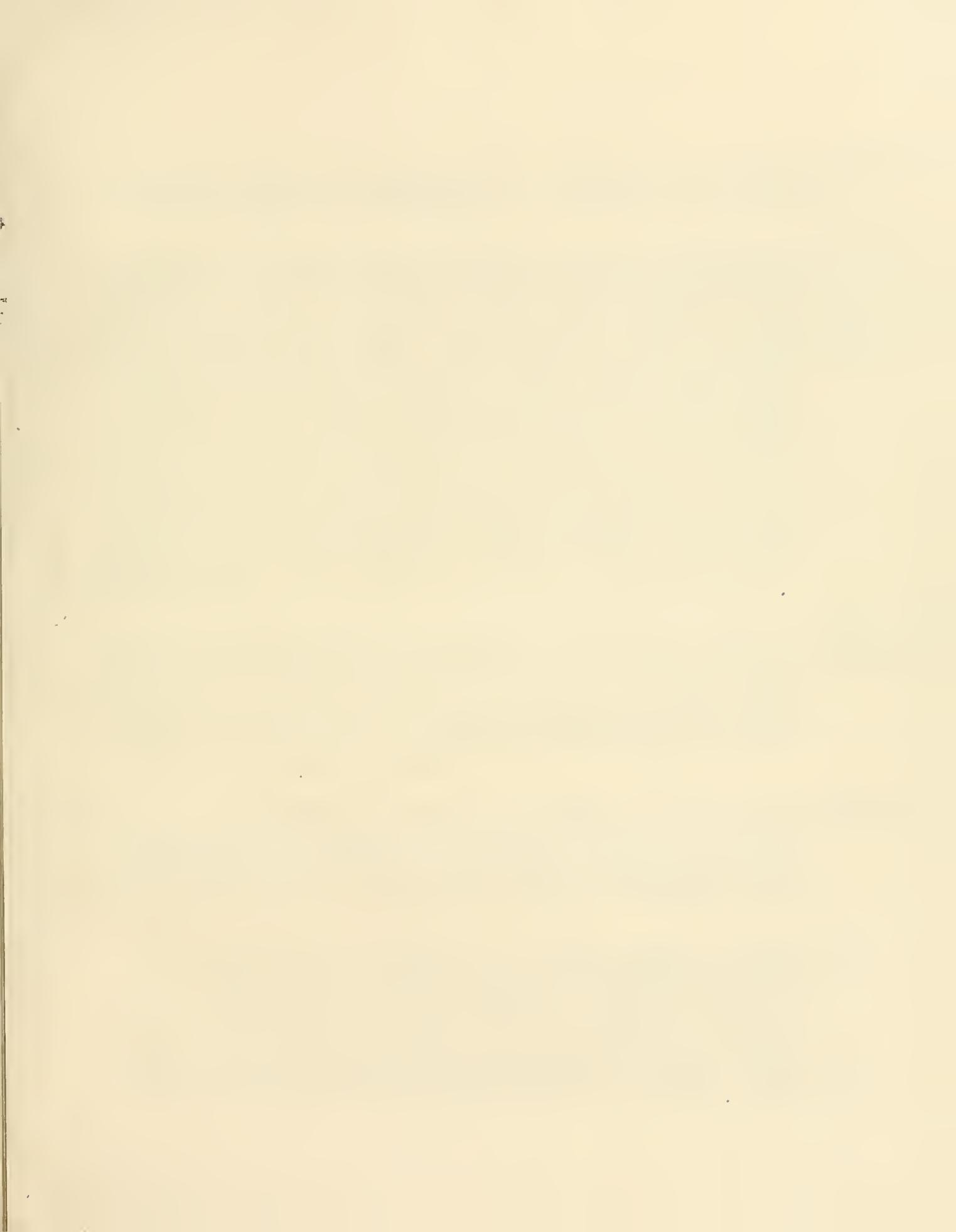
See Mr. Batty's Affidavit, Appendix page 43.

Appendix, page 22.

See Mr. Batty's Affidavit, page 43.

See Mr. Fearon's Affidavit, Appendix page 57.

14. After the passing of the Endowed Schools Act 1869 the question whether the School was a denominational School falling within the provisions of Section 19 of that Act was considered on more than one occasion prior to the decision of the 31st March 1894 against which the Petitioners are now appealing. In the year 1870 the Endowed Schools Commissioners prepared a Scheme for the School under the general provisions of the Endowed Schools Act 1869 and not as for an endowment falling within the special provisions of Section 19 which Scheme was unanimously approved by the Corporation 40 of Colchester who were among the Governors of the School. This Scheme was opposed by the surviving Trustees of the property of the foundation appointed by an Order of the Charity Commissioners sealed on the 7th May 1867 and was not further proceeded with but the Endowed Schools Commissioners





in the course of the discussions and correspondence relating to the said Scheme declared their opinion that the School was not a denominational School falling within the provisions of the said Section 19.

See Mr. Batty's Affidavit, Appendix page 43.

See Mr. Fearon's Affidavit, Appendix page 58.

Mr. Batty's Affidavit, page 44.

See Mr. Wanklyn's Affidavit, Appendix page 42.

Mr. Batty's Affidavit, Appendix page 41.

15. On the 29th of July 1893 a further Draft Scheme was prepared and published by the Charity Commissioners and was submitted to the Corporation of Colchester. That Draft Scheme contained no provision requiring the Head Master of the School to be a Member of the Church of England and on the 6th of September 1893 a suggested amendment and alteration of the Draft Scheme requiring the Head Master to be a member of the Church of England 10 was rejected by the Council of the Borough. The before-mentioned Trustees opposed this Draft Scheme also and in the result the Charity Commissioners in consequence of their failure to obtain the consent of the several governing bodies to the terms proposed in the said Draft Scheme were (as they stated) constrained to determine the question whether the endowment does or does not fall within the provisions of Section 19 of the Endowed Schools Act 1860 and expressed the opinion and decision that the Endowment does so fall. In consequence of that decision the Draft Scheme was modified by the Charity Commissioners and was ultimately as stated in paragraph 1 of this Case 20 approved by the Commissioners and by the Lords of the Committee of Her Majesty's Privy Council on Education in the form to which the Petitioners are now objecting.

Page 22.

16. On August 1st 1894 the Corporation of Colchester at a meeting of the Town Council approved the Draft Scheme of July 26th 1893 subject to a condition as to the appointment of Governors which was afterwards complied with. But on the 6th of January 1897 after there had been fresh Municipal Elections the Corporation of Colchester at a meeting of the Town Council cancelled their approval of the said Scheme and requested the Commissioners to prepare a Scheme omitting the requirement that the Head Master should be a member of the Church of England.

Affidavits of Mr. Wanklyn, Appendix pages 41 and 53.

30 17. The Petitioners are aggrieved by the decision of the Charity Commissioners of the 31st of March 1894 because the said decision is having regard to the facts stated in paragraphs 5 to 12 of this Case erroneous in point of fact and contrary to the Report of Mr. Elton referred to in paragraph 13 of this Case and contrary also to the declared opinion of the Endowed Schools Commissioners referred to in paragraph 14 of this Case.

Appendix, page 22.

18. The Petitioners are aggrieved by the Scheme founded on the said decision because by the said Scheme (Clause 33) the Head Master is required if not in Holy Orders to sign on his appointment a declaration that he is a member of the Church of England. No such condition was imposed by 40 the Scheme proposed by the Endowed Schools Commissioners in the year 1870 nor by the original draft (of which the present Scheme is a modification) as published by the Charity Commissioners on the 29th of July 1893. The Petitioners are also aggrieved by the said Scheme (Clause

page 29.

page 24.

5) because out of the three representative Governors whose appointment is not in the hands of popularly elected bodies two are to be appointed by dignitaries or officials specially concerned with the interests of the Church of England namely one by the Lord Bishop for the time being of the Diocese of St. Albans and one by the Council of King's College, London, while no representative Governor is to be appointed by any person or body of persons specially concerned with the interests of any other religious body. The Petitioners are further aggrieved because the Scheme (Clause 53) does not define or settle the requirements respecting the religious instruction or attendance at religious worship of the scholars which are to be left in force and 10 leaves untouched the legal requirements and restrictions of the pre-existing Scheme (if there were any such respecting such instruction or attendance) although such legal requirements and restrictions have in fact and practice grown obsolete.

19. The Petitioners humbly contend and submit that the Judicial Committee of Her Majesty's Privy Council should make to Her Majesty a recommendation in accordance with the prayer of the said Petition namely that Her Majesty would be graciously pleased to withhold Her Majesty's approval from the Scheme now complained of and that the said Scheme may be remitted to the Charity Commissioners with such declaration as the nature of the case 20 may require for the following amongst other

#### REASONS.

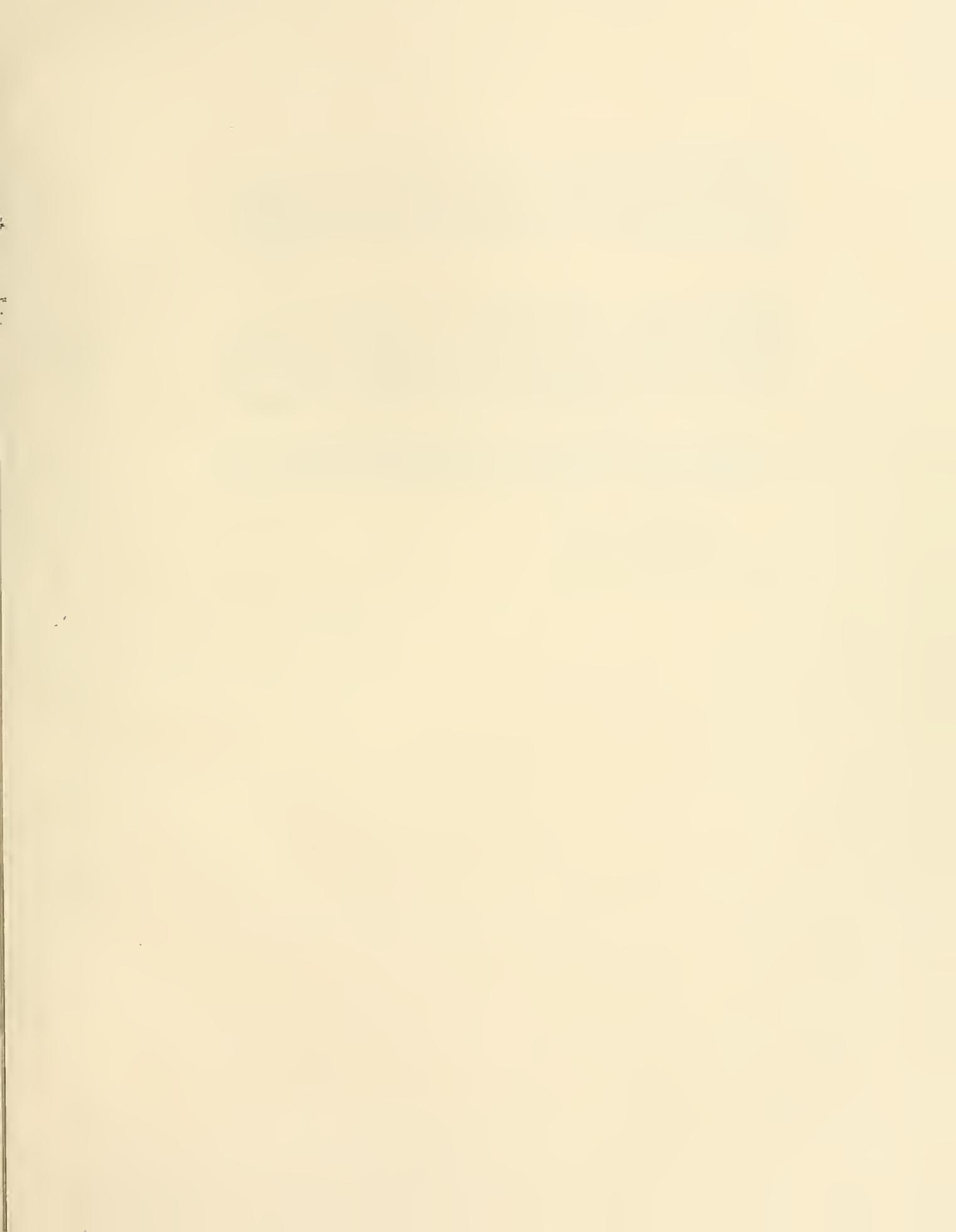
1. Because the decision of the Charity Commissioners expressed in the letter of their Secretary dated March 31st 1894 is erroneous.

2. Because there are no express terms in the Charter of King Henry VIII, which was the original instrument of foundation requiring the scholars to learn or to be instructed according to the doctrines or formularies of any particular Church sect or denomination.

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3. Because there are no express terms in the Charter of Queen Elizabeth or in the statutes and regulations of 1586 made under the authority of that Charter requiring the scholars to learn or to be instructed according to the doctrines or formularies of any particular Church sect or denomination.

4. Because the Order of January 11th 1638 was not a statute or regulation made by Queen Elizabeth or under her authority.





5. Because no express terms of the said Charters Statutes Regulations or Order (if there were any such) requiring the scholars to learn or to be instructed according to the doctrines or formularies of any particular Church sect or denomination were observed down to the commencement of the Endowed Schools Act 1869.

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6. Because at the commencement of the Endowed Schools Act 1869 the said School was as a matter of fact and practice not affected by any compulsorily requirement respecting the religious instruction or the attendance at religious worship of the scholars resorting thereto particularly if the parents and guardians of such scholars were Nonconformists.

7. Because the said Scheme is founded on the decision of the Charity Commissioners as expressed in their letter of March 31st 1894 which decision is erroneous in point of fact.

CYRIL DODD.

JOHN SCOTT FOX.

In the Privy Council.

*In the Matter of* THE ENDOWED SCHOOLS  
ACTS, 1869, 1873, and 1874

AND

*In the Matter of* A SCHEME FOR THE  
ADMINISTRATION OF THE FOUN-  
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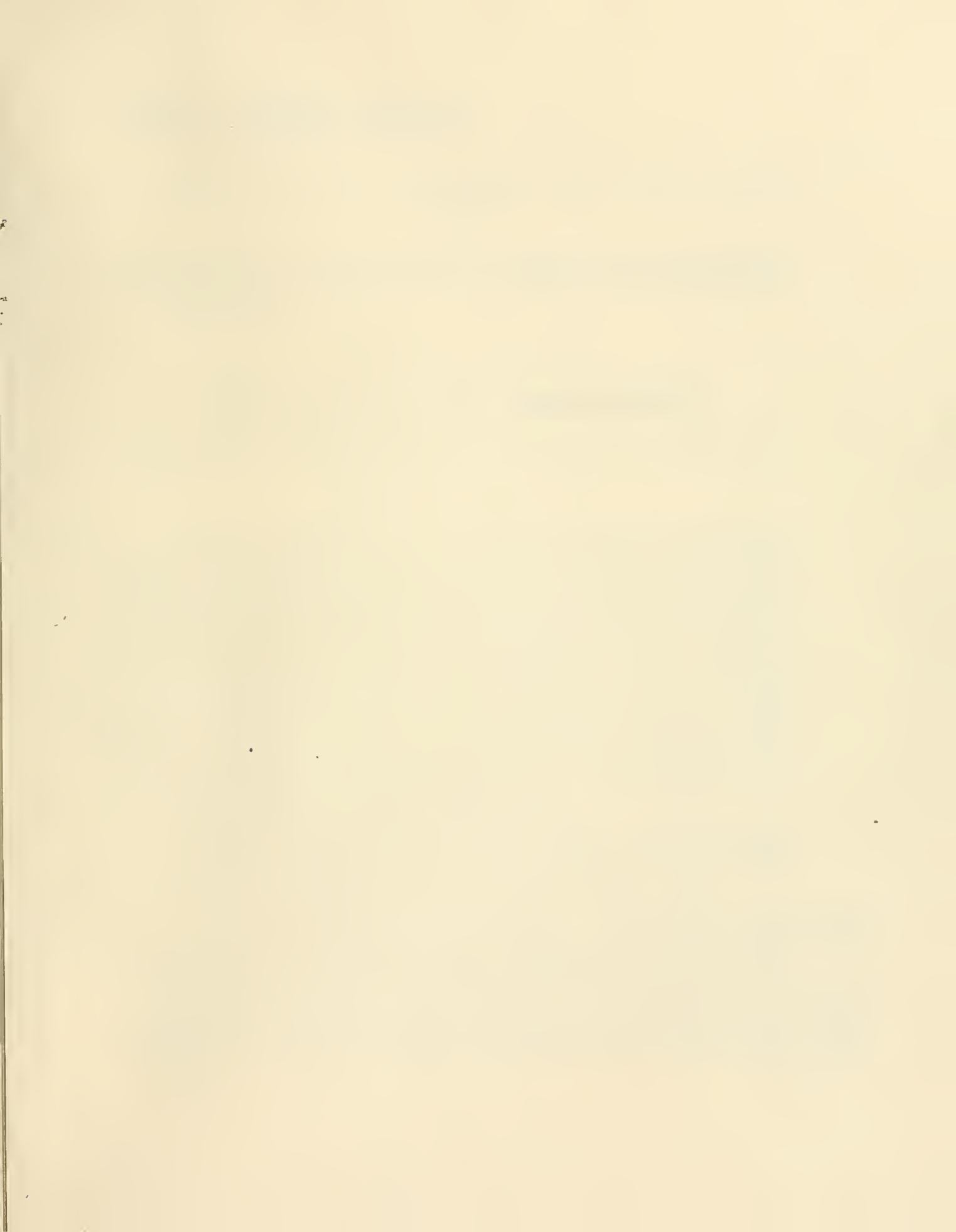
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PETITIONERS' CASE.

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SHEPHEARDS,

31 and 32, Finsbury Circus, E.C





# In the Privy Council.

IN THE MATTER OF THE ENDOWED SCHOOLS ACTS 1869, 1873,  
AND 1874

AND

IN THE MATTER OF A SCHEME for the administration of the FOUNDATION known as THE GRAMMAR SCHOOL in the BOROUGH OF COLCHESTER.

## THE CASE OF THE RESPONDENTS

THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES.

1. This is an Appeal by two persons, each described in the Petition of Appeal as of a certain address in the Borough of Colchester, against a Scheme made by the Respondents under the powers of the Endowed Schools Acts for the Grammar School at Colchester. The apparent object of the Appeal is to obtain a determination of the question whether the endowment does or does not fall within Section 19, Subsection (2) of the Endowed Schools Act 1869, the Petitioners alleging that it does not. The Respondents, however, submit (as preliminary points): First, that the Petitioners have no *locus standi* to appeal against the Scheme on the ground of the endowment being, or not being, 10 within Section 19 of the Act of 1869; and, secondly, that, even if the Petitioners had a *locus standi*, still the question which they attempt to raise does not arise at all, inasmuch as the Scheme is framed precisely as (if the contention of the Petitioners be correct) is directed by the Act, and consequently could not be altered if the Petitioners established that contention.

The Respondents submit and object that the Judicial Committee will not enter into the question, whether the endowment does or does not fall within Section 19 of the Act at the instance of persons who have no title to appeal, and when the Scheme appealed from cannot be affected by the result.

2. First, the Appellants have no *locus standi*. They allege by their 20 Petition that they are inhabitants and ratepayers of the Borough, and that they have sons at the School. No affidavit by them has been filed, and there is no evidence of what they so allege, but as inhabitants and ratepayers (if they be such) they are not persons "directly affected" within Section 39 of the Endowed Schools Act 1869, and any sons they may have at the School must be day scholars, since there have been no boarders at all for some years previous to April 1892. As regards day scholars, the Scheme under appeal contains

Joint  
Appendix,  
p. 1.

Affidavit of  
Rev. J.  
Thomas,  
Appendix,  
p. 71.

Scheme,  
Appendix,  
p. 32.

(Section 54) the provisions of Section 15 of the Endowed Schools Act 1869, giving to them a full conscience clause, and the *status* of day scholars is not affected in any way by the question, whether the endowment is or is not a denominational endowment within Section 19, Subsection (2) of the last-mentioned Act.

Scheme,  
Cl. 2, 32, 54,  
Appendix,  
pp. 24, 29,  
and 32.

3. Secondly, even if the Petitioners were competent to appeal, no Appeal lies against the Scheme on the ground of the Foundation not being one which falls within Section 19 of the Act, because the Scheme is in entire conformity with the Act whether Section 19 is or is not applicable, and therefore could not be remitted to the Commissioners for Amendment, with a declaration as prayed by the Petitioners. The only requirements imposed by the Act, which apply 10 to an endowment which is not within Section 19, and do not apply (without consent) if the endowment is within that Section, are the provisions of Section 16 (as to religious education in boarding schools), Section 17 (as to religious opinions of members of the Governing Body), and Section 18 (Masters not required to be in Holy Orders). All these provisions are contained in the Scheme as it stands, the consent of the Governing Body (as required by Section 19 of the Act) having been obtained for their insertion, and the Scheme is therefore in conformity with the Act *quacunque viā*. The clauses of the Scheme providing that the Head Master shall be a member of the Church of England (Clause 33), and that scholarships, &c., are to be given on the result of such 20 examination as the Governing Body shall think fit (Clause 61), are clauses which the Commissioners may insert or not at their option, and are not the subject of appeal. Clause 53 (preserving any existing legal requirements as to religious instruction, &c.) is valid, whether the endowment is or is not within Section 19, and is in a form which has been in use and has been recognised as valid by the Judicial Committee.

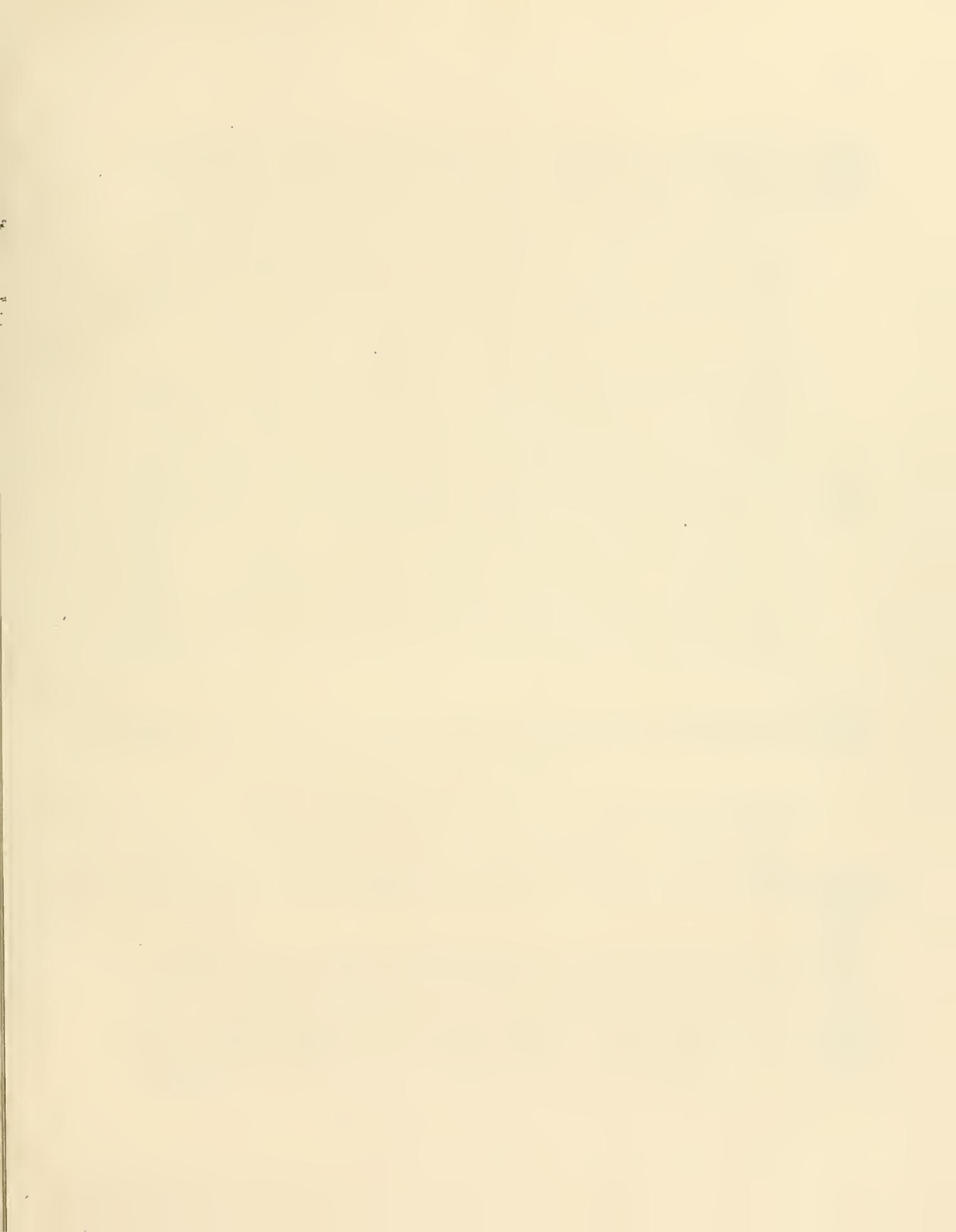
Charter of  
1584,  
Appendix,  
pp. 9-14.

Resolution  
of 1st Aug.,  
1894,  
Appendix,  
p. 53.

Affidavit of  
D. R.  
Fearon,  
par. 9, 10,  
Appendix,  
p. 59.

4. The Appellants say (Petition of Appeal, par. 15) that the Governing Body of the School is the Corporation of Colchester, to whom Queen Elizabeth by Charter, dated 6th July, 1584, granted lands for the erection and endowment of the Grammar School, with the right to nominate the Master. 30 The Appellants allege that the Corporation of Colchester have not consented to the Scheme, but this allegation is contrary to the fact. On 1st August, 1894, the Council of the Borough duly passed a Resolution assenting to the Scheme (subject to a condition, viz., that a slight alteration should be made in Clause 5, requiring that the Governors to be appointed by the Council should be members of that body), which was duly fulfilled. The assent was notified by the Town Clerk to the Charity Commissioners on 4th August, 1894, and the Scheme was completed, and (on 1st February, 1895) submitted to and (on 2nd February, 1896) approved by the Committee of Council on Education on the footing of such assent having been given. If (as alleged) the Town Council, 40 on 6th January, 1897 (nine months after the Scheme had been appealed from), passed a Resolution purporting to disapprove of the Scheme to which the Corporation had assented, such Resolution can have no legal effect.

5. Under a decree of the Court of Chancery, dated 31st October, 1698, Trustees have been from time to time appointed of the property of the School,





and the four surviving Trustees at the date of the making of the Scheme duly assented thereto. Similar assents were given by the Bishop of London and Dean of St. Paul's (who had under the Charter a power of making Statutes for the School), by the Mayor, Senior Alderman, and Rural Dean of Colchester (who, under Statutes made in 1814, were to "from time to time oversee" the School), and by the Archdeacon of Colchester (who by the same Statutes was to appoint occasional examiners). These assents were obtained from abundant caution, but the Respondents do not admit that any person or body other than the Corporation of Colchester is or forms part of "the Governing Body" of the

Fearon's  
Affidavit,  
par. 7, &c.,  
Appendix,  
p. 58.

10 School within the meaning of Section 19 of the Endowed Schools Act 1869.

6. Under these circumstances it is proposed to deal only shortly with the question whether the Grammar School is or is not a denominational endowment within Section 19 (2) of the 1869 Act. Statutes for the School were made by the Bishop of London and the Dean of St. Paul's (Dr. Nowell) in 1586, under the authority of the Charter of Foundation of 1584, providing in express terms (as it is submitted) for the instruction of the scholars according to the doctrines and formularies of the Church of England. By Statute 3 all the scholars were to be every Sunday in the Schoolmaster's sight at church during the time of sermon, and he was to examine them every Monday morning how they had profited by it. By

Statutes of  
1586,  
Appendix,  
pp. 14-18.

20 Statute 4 the Schoolmaster was to read Nowell's Catechism one day in the week to the scholars, and was to examine them in it in such sort that they might out of the same be able to yield a good account of their faith. By Statute 5 the Schoolmaster, with so many of his scholars as should by the public preacher of the town be found able to yield a sufficient account of their faith and religion, was to present himself and them on the first Sunday of every quarter to be partakers of the Lord's Table, in the Parish Church appointed to the School.

7. In 1638 an order (supplemental to Statute 3) was made by the Bishop of London that the Schoolmaster should cause all the scholars to go 30 with him every Sunday and holy days to the Parish Church and examine them afterwards what they had borne away of the sermon.

Order of  
1638,  
Appendix,  
p. 19.

8. In 1814 fresh Statutes were made by the Bishop of London and Dean of St. Paul's, providing (Statute 6) that the scholars should receive instruction two days a week at least in the Scriptures and in the doctrines of the Church of England, as set forth in the Articles of Religion, the Catechism, and the Book of Common Prayer, and that all scholars upon attaining the age of 16 should after due preparation by the Master be presented to the Bishop for confirmation.

Affidavits of  
Curtis, Syer,  
Shenstone,  
Sparling,  
Harwood,  
Appendix,  
pp. 45-51.  
Exhibits  
D.R.F. 9,  
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D.R.F. 11,  
Appendix,  
pp. 68, 69.

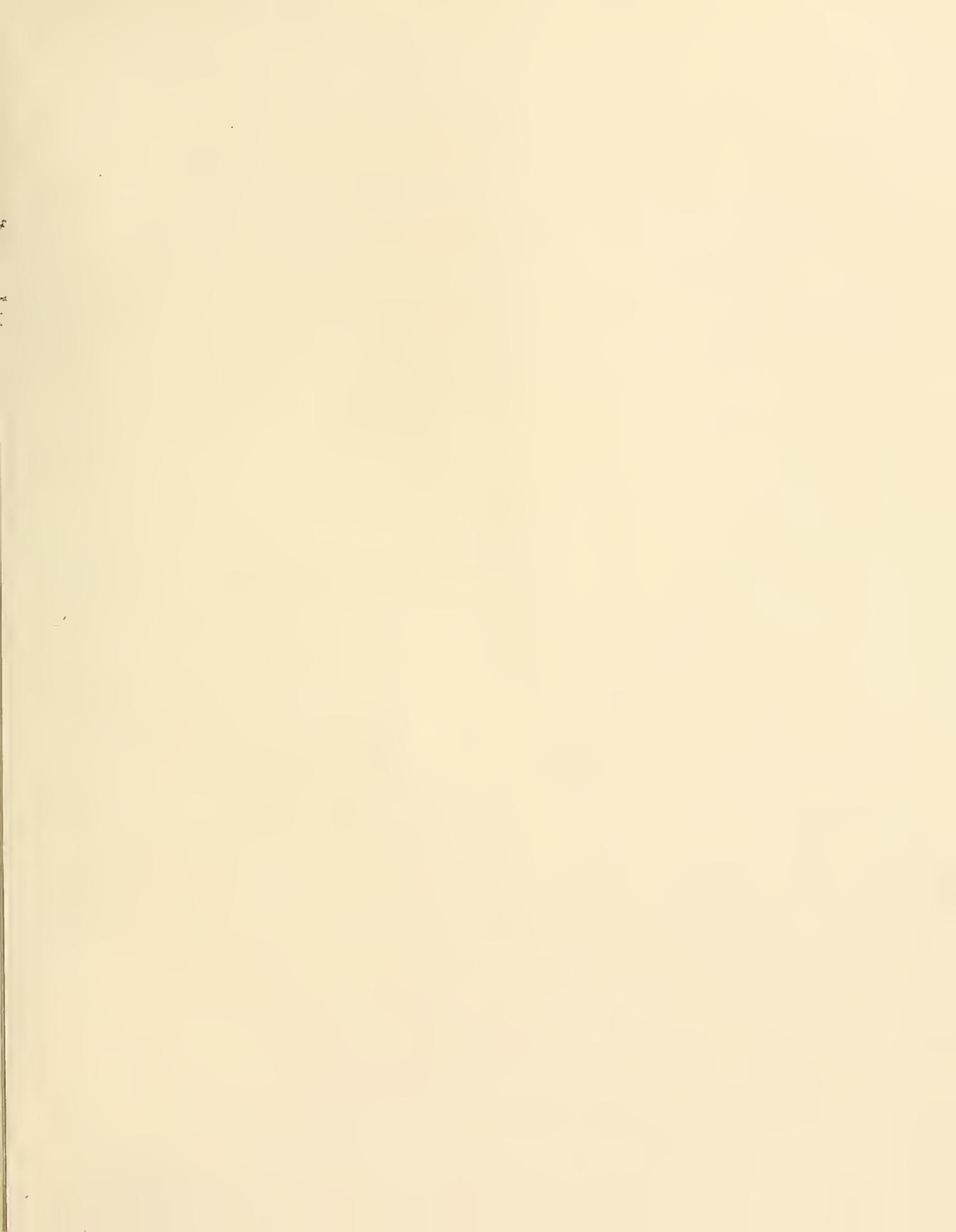
9. There is no reason to doubt that these terms were observed down to 40 2nd August, 1869, the date of the passing of the Endowed Schools Act. Evidence of former scholars and extracts from the School Reports will be found in the Appendix covering the period 1852-1870, showing that the Church Catechism, the Thirty-nine Articles and other Church formularies were regularly taught, and to all the scholars. The evidence for the Appellants, it is submitted, does not establish the contrary conclusion.

The Respondents submit that the prayer of the Petition of Appeal ought not to be granted, and that the Scheme under appeal ought to be approved by Her Majesty in Council for the following among other

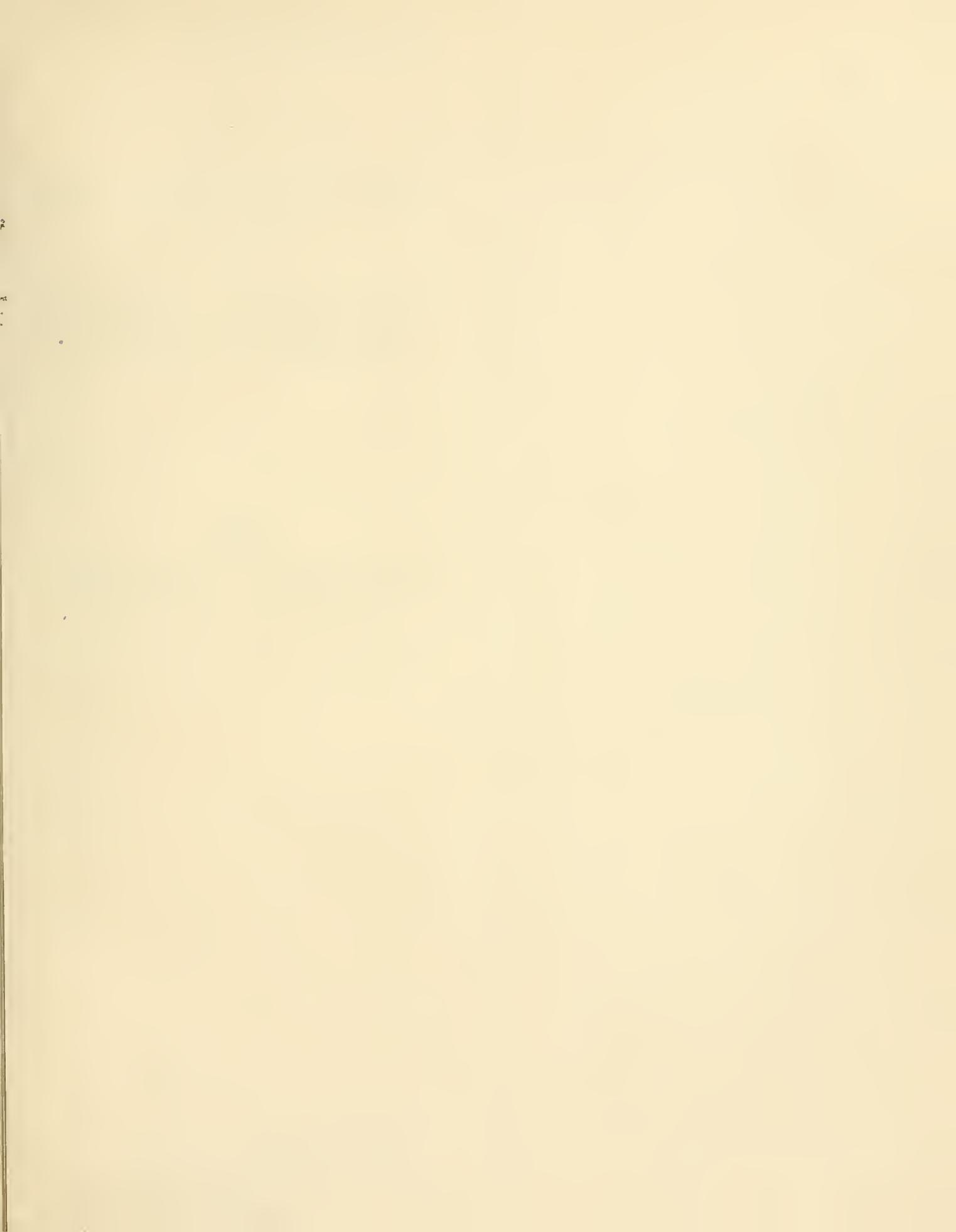
## REASONS:

1. Because the Appellants are not persons directly affected by the Scheme within the meaning of Section 39 of the Endowed Schools Act of 1869, and are not persons empowered to appeal to Her Majesty in Council against it.
2. Because the Scheme is within the scope of and made in conformity with the said Act, and the Acts amending the same, and its validity is not affected by the question whether this endowment does or does not fall within the provisions of Section 19 (2) of the said Act of 1869.
3. Because the endowment does in fact fall within the provisions of the last-mentioned Section.
4. Because the Scheme is in all respects a valid and proper Scheme.

HERBERT H. COZENS-HARDY.  
F. VAUGHAN HAWKINS.







IN THE MATTER OF THE ENDOWED  
SCHOOLS ACTS

AND

IN THE MATTER OF A SCHEME FOR  
THE GRAMMAR SCHOOL IN THE  
BOROUGH OF COLCHESTER.

—  
CASE  
FOR THE CHARITY COMMISSIONERS  
FOR ENGLAND AND WALES.

—

FARRER & CO.,

66 *Lincoln's Inn Fields,*

SOLICITORS FOR THE RESPONDENTS.  
[a 454]





# In the Privy Council.

*In the Matter of* THE ENDOWED SCHOOLS ACTS, 1869, 1873,

and 1874,

AND

*In the Matter of* a Scheme for the Administration of the Foundation  
known as the GRAMMAR SCHOOL, in the BOROUGH of  
COLCHESTER.

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## JOINT APPENDIX.

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SHEPHEARDS,

31 & 32, Finsbury Circus, E.C.,

*Solicitors for the Petitioners.*

FARRER & CO.,

66, Lincoln's Inn Fields, W.C.,

*Solicitors for the Respondents,*



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No. 1.—Petition to Her Majesty in Council, presented  
 4th April, 1896.

Petition to the  
 Queen, presented  
 4th April, 1896.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869, 1873, and 1874*

AND

*In the Matter of a Scheme for the Administration of the Foundation known  
 as the Grammar School in the Borough of Colchester.*

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

10 The Humble Petition of Herbert Frederie Nash of 23 Wimpole Lane in  
 the Borough of Colchester and of Walter Edmund Thorrington of  
 133 Winnock Road in the same Borough.

SHEWETH—

1. That within two months before the date of this our Petition a scheme  
 for the Administration of the Foundation known as the Grammar School in the  
 Borough of Colchester in the County of Essex founded by a Charter or Letters  
 Patent of King Henry the Eighth dated the 12th of November 1539 and refounded  
 by Letters Patent of Queen Elizabeth dated the 6th of July 1584 purporting to  
 be made by the Charity Commissioners in conformity with and in pursuance of  
 the powers given by the Endowed Schools Acts 1869 1873 and 1874 was (after  
 20 being approved by the Lords of the Committee of Her Majesty's Privy Council  
 on Education) published as provided by the said Acts.

2. That your Petitioners are inhabitants and ratepayers of the Borough of  
 Colchester and parents of sons who now are and have for some time past been  
 scholars attending the said Grammar School.

3. That your Petitioners are persons directly affected by the said scheme  
 and feel aggrieved by the said scheme and by the provisions for the government  
 of the said School contained therein and by the decision of the Charity  
 Commissioners on which the said scheme is founded given on or about the 31st  
 of March 1894 that the Endowment in question did fall within the provisions of  
 30 Section 19 of the Endowed Schools Act 1869.

4. That the educational endowment by which the scholars attending the  
 said Grammar School are educated was founded by King Henry the Eighth

Petition to the  
Queen, presented  
4th April, 1896.

who by his Charter or Letters Patent bearing date November 12th in the 31st year of his reign (1539) granted to the Bailiffs of Colchester and to the Burgesses and Commonalty and their successors then in possession of the advowson of the Chantries of St. Helen and St. Mary in Colchester all the messuage and hereditaments belonging to the Chantry of St. Helen which were then vacant and also all the messuages and hereditaments belonging to the Chantry of St. Mary when the same should become vacant so that the said Bailiffs Burgesses and Commonalty and their successors should appropriate part of such messuages and hereditaments to the erection of a free school in the said town and the rest to the common advantage of the said town for the better <sup>10</sup> payment of the fee farm of the same and he granted license to the said Bailiffe Burgesses and Commonalty to erect the said school.

5. That the above-mentioned Charter or Letters Patent was surrendered and a new Charter or Letters Patent granted by Queen Elizabeth bearing date 6th of July in the 26th year of her reign (1584). By this Charter Queen Elizabeth granted to the Bailiffs and Commonalty of Colchester the said chantries and all the messuages and hereditaments comprised in the said Charter of Henry the Eighth to hold the same for ever so that the Bailiffs and Commonalty should lay out and distribute part of the premises to erect a free school in the same town and the residue to the common advantage of the said town for the better payment of the fee farm of the same according to their discretion and that her said intention as to the erection of the said school might be the better performed she granted to the said Bailiffs and Commonalty special licence to found and erect a free grammar school within the said town and to assign a part of the premises of the clear yearly value of twenty marks or more to the maintenance of the said school for ever as to them should seem meet and that the Bailiffs and Commonalty should have the nomination of the master of the said school and that statutes and ordinances in writing for the government of the said school and schoolmaster and scholars should be made by the Bishop of London and the Dean of St. Paul's and their successors and that the Bishop <sup>30</sup> of London should be the visitor and should have power to visit and supervise as well the school and masters and scholars as the messuages and premises which should be assigned by the said Bailiffs and Commonalty for the maintenance of the school as aforesaid.

6. That the Bailiffs and Commonalty of Colchester did accordingly erect and found a free grammar school within the town and assigned and conveyed certain premises part of the premises mentioned in the Letters Patent to and for the maintenance of the said free school and the schoolmaster thereof for the time being for ever.

7. That the first statutes of the school were framed by the Bishop of <sup>40</sup> London and the Dean of St. Paul's in 1584 and direct among other things that

- (1.) The schoolmaster shall be a Master of Arts sufficiently able to instruct in grammar Latin and Greek both in prose and verse and of a sound

and good religion void of all Papistry chosen according to the foundation of the town of Colchester.

Petition to the Queen, presented  
4th April, 1896.

10 (2.) The schoolmaster or the usher by his appointment in his absence before he begin to teach in the schoolhouse where the school shall be kept and every night before the scholars shall depart shall say the Lord's Prayer the Confession of Sins set forth in the beginning of the Book of Common Prayer the Articles of the Faith and the Ten Commandments of Almighty God with a short prayer at the end for the increase of learning to his scholars one other for the Queen's Majesty and for the good estate of the towne of Colchester and all the scholars to say these prayers after him openly and audibly which prayers shall be drawn up by the advice and direction of the Lord Bishop of London or the Dean of St. Paul's and being made and published under one of their hands shall continually be used without alteration and a table of them being fair written out shall be up in the school.

20 (3.) The schoolmaster shall every Sunday (except he have some reasonable lett) cause all the scholars to go with him to the church within the said town where the general sermon is made to the sermon if there be any such and there to continue decently and conveniently in such place as shall be appointed for his scholars to be in his sight during the time of sermon and on the Monday morning following to examine the same scholars how they have profited by the sermon. The schoolmaster shall also have regard that all his scholars and himself shall go to the publice prayers every Sunday and holiday at morning and evening prayers and there shall continue the whole time of common prayer and see that his scholars shall well and reverently demean themselves there.

30 (4.) The schoolmaster shall one day in the weeke read unto his scholars publicely in the school Mr. Nowell's Catechism appointed by the injunctions to be read in every school either in Latin or Greek according to the capacity of his scholars and shall in such sort examine them in it as they may out of the same be able to yield a good account of their faith.

40 (5.) The schoolmaster and usher shall with so many of his scholars as shall by the publick preacher of the town if there be any so found able to yield a sufficient accompt of their faith and religion the first Sunday of every quarter of the year present himself with them to be partakers of the Lord's table in that parish church which shall be appointed to the school.

(16.) The bailiffs of the said towne for the time being shall from time to

time oversee the school and cause the laws and orders to be duly observed.

8. That the third statute above set out was subsequently altered by an Order made on the 11th July 1638 by Dr. Aylit Commissary to William then Lord Bishop of London and official of the Archdeaconry of Colchester whereby it was ordered that while there should be no general sermon the schoolmaster for the fulfilment of the intent of the aforesaid Order should cause all his scholars every Sunday and holy-day to go with him to the service and sermon made at the parish church whereto the school belongs and there see them quietly and soberly to behave themselves during the time of divine service and sermon 10 and should examine them at times convenient after their return what they have borne away of such sermon as they shall hear.

9. That new statutes were framed in 1844 by the Bishop of London and Dean of St. Paul's and direct among other things—

- (1.) That the statutes ordinances and constitutions published and declared by the then Bishop of London and the Dean of St. Paul's in the 26th year of the reign of Queen Elizabeth shall be repealed.
- (2.) That the schoolmaster of the said school be a graduate of one of the English Universities in Holy Orders but not possessed of any benefice that he be chosen according to the foundation of the Borough of 20 Colchester and presented to the Lord Bishop of London within one month from the day of his election for his Lordship's license.
- (4.) That morning and evening prayers shall be daily read by the master before the business of the school commences and when it is finished according to a form to be approved of by the Bishop and that a short portion of Holy Scripture be read at such prayers.
- (5.) That the scholars shall attend church on Sundays with their respective parents or friends but that the boarders if any shall accompany the master to Church.
- (6.) That the scholars shall receive instruction two days at least in the 30 week in the Holy Scriptures and in the doctrines of the Church of England as set forth in the Articles of Religion the Catechism and the Book of Common Prayer and that every scholar who shall have attained the age of sixteen years shall after due preparation by the master be presented to the Bishop for confirmation.
- (10.) That the free scholars shall be chosen by the Mayor Aldermen and Council from among the children of the inhabitants of the Borough at large.

Petition to the  
Queen, presented  
4th April, 1896.

(14.) That there shall be holden immediately before the summer or winter holydays every year an examination of the scholars in all the various branches of instruction especially in those which pertain to religion. Such examinations shall be conducted by one or more clergymen appointed by the Archdeacon of Colchester who shall be requested himself to preside at such examination and the Mayor Aldermen and Council shall be invited to attend.

(15.) That the Mayor of Colchester together with the senior Alderman and the Rural Dean shall from time to time oversee the said school and cause these statutes to be observed in every article.

10 10. That for many years before the commencement of the Endowed Schools Act 1869 the provisions in the statutes of the said school framed in 1584 and set out in the 7th paragraph of this petition and therein numbered (2) (3) (4) and (5) respectively and also the provisions of the Order dated July 11th 1638 and referred to in the 8th Paragraph of this Petition and also the provisions and directions of the more recent statutes of 1844 set out in the 9th paragraph of this Petition and therein numbered (4) (5) (6) and (14) respectively had fallen into disuse and had ceased to be observed and had become obsolete.

20 11. That there was never any requirement by the express terms of the original instrument of foundation of the said school or of any statute or regulation made by the Founder or under his or her authority requiring the scholars educated by the said foundation to learn or to be instructed according to the doctrines or formularies of any particular church sect or denomination.

12. That before and at the commencement of the Endowed Schools Act 1869 no term of the original instrument of foundation of the said school or of any statute or regulation made by the Founder or under his or her authority requiring the scholars educated by the said foundation to learn or to be instructed according to the doctrines or formularies of any particular church sect or denomination (if there ever was any such term) was being observed.

30 13. That the Charity Commissioners in framing and considering objections to the frame of the scheme ultimately approved and now complained of were of opinion and on or about March 31st 1894 decided that the Endowment in question fell within the provisions of Section 19 Sub-section (2) of the Endowed Schools Act 1869 and framed and made the scheme now complained of upon and in accordance with such opinion and decision.

14. That by the said scheme the head master must either be in Holy Orders or must on appointment sign a declaration that he is a member of the Church of England.

15. That the Corporation of Colchester (who are the governing body of the said school) do not consent to the provision in the scheme stated in the foregoing paragraph of this Petition.

16. That by the said scheme the newly appointed governing body is at liberty to direct the examinations for scholarships or exhibitions or some of them to be wholly or partly in the doctrinal tenets of the Church of England or in subjects outside the scope of the authorised school teaching.

17. That by the said scheme some of the existing legal requirements (whether obsolete or not) respecting the religious instruction or attendance at religious worship of the scholars are left in force and the question whether any <sup>10</sup> and which of such requirements are still legally binding is not decided.

18. That the grounds of this Petition are—

- (1.) Because the decision of the Charity Commissioners (being the decision of 31st March, 1894, above mentioned) in a matter in which an appeal to Her Majesty in Council is given by the Endowed Schools Act, 1869, Section 19 was erroneous.
- (2.) Because the said decision affects the scheme now complained of.
- (3.) Because the said scheme is not within the scope of and made in conformity with the Endowed Schools Acts, 1869, 1873, and 1874.
- (4.) Because of all the facts stated in this Petition particularly those shewn <sup>20</sup> in paragraphs 4, 10, 11, 12, and 15 hereof.

Your Petitioners therefore most humbly pray that Your Majesty in Council will be pleased to take this their humble Petition into Your Majesty's most gracious consideration and that Your Majesty will be pleased to withhold Your Majesty's approval from the scheme now complained of and that the said scheme may be remitted to the Charity Commissioners with such declaration as the nature of the case may require.

And your Petitioners will ever pray &c.

II. F. NASH.

WALTER E. THORRINGTON.

30

Witness to the signature of HERBERT FREDERIC NASH,  
ARTHUR S. WALTERS, Solicitor,  
Clerk to Shepheards,  
31 and 32, Finsbury Circus, London, E.C.

Witness to the signature of WALTER EDMUND THORRINGTON,  
A. H. P. BLANCHARD,  
Clerk to Messrs. Shepheards, Solicitors,  
31 and 32, Finsbury Circus, London, E.C.

No. 2.—Translation of Charter granted by King Henry the Eighth, dated 12th November, 1539.

Charter of Henry VIII., 12th November, 1539.

Signed Bills, November 31, Henry VIII.

A.D. 1539.

To the King's Sovereign Lord.

Please it Your Highness of your most abundant grace to grant your letters patents in due form to be made according to the tenor ensuing.

10 Memorandum the 12th day of November in the 31st year of the reign of King Henry the Eighth this Bill was delivered to the Lord Chancellor of England at Westminster to be executed.

HENRY R.

The King to all to whom &c.—Whereas the Bailiffs Burgesses and Commonalty of our town of Colchester in the County of Essex lawfully have and of right ought to have the advowson of the Chantry Chapel of St. Ellen of our town of Colchester aforesaid and the advowson of another Chantry in the Church of the Blessed Mary within the same town in the County aforesaid of old time erected and founded which same chantries were endowed with divers messuages lands tenements meadows feedings woods rents and other hereditaments: We desiring to convert to better uses the said chantries and the issues and profits of the aforesaid messuages lands meadows pastures rents and other the premises and considering the good intention of the Bailiffs Burgesses and Commonalty of our town aforesaid as well for erecting and establishing within the said town a free school as for relieving and maintaining the public welfare and necessity of our town aforesaid: Of our special grace and of our certain knowledge and mere motion and also by our royal authority of being supreme head of the English Church whereby we govern on earth we do grant by these presents to John Cristemas Esquire and Thomas Cokk Bailiffs of our town aforesaid and to the Burgesses and Commonalty of our town aforesaid that they and their successors from henceforth shall have hold and retain all messuages lands tenements meadows pastures woods rents reversions and services and other hereditaments whatsoever to the aforesaid Chantry Chapel of St. Ellen belonging which same Chantry is now void: To have and to hold the same messuages lands tenements meadows pastures rents reversions and services and other hereditaments to the said Chantry Chapel of St. Ellen belonging to the aforesaid Bailiffs Burgesses and Commonalty and their successors for ever: And also we do grant to the aforesaid Bailiffs Burgesses and Commonalty that whosoever the other Chantry aforesaid in the Church of the Blessed Mary aforesaid should first and next happen to be vacant for any reason that then immediately after such vacancy the aforesaid Bailiffs Burgesses and Com-

monalty and their successors shall have hold and retain all messuages lands tenements meadows pastures woods rents services and other hereditaments whatsoever to the same Chantry belonging: To have and to hold the same messuages lands tenements meadows pastures woods rents reversions and services and other hereditaments aforesaid with their appurtenances to the aforesigned Bailiffs Burgesses and Commonalty and their successors for ever without impeachment molestation or grievance of the Bishop of London or his successors or any ordinary of whatsoever name estate or dignity he may be claiming or challenging anything of right of collation institution or induction by reason of his office in the same chantries or either of them: So nevertheless 10 that the said Bailiffs Burgesses and Commonalty according to their wise discretion shall lay out and distribute a part of the aforesaid messuages lands tenements pastures meadows and other the premises for erecting a certain free school in the same town and the residue to the common utility of the town aforesaid for the better payment of the fee farm of the same town. For erecting which same free school according to the statutes and ordinances of our beloved and faithful Councillor Sir Thomas (Auddley) knight Lord Audeley of Walden and Chancellor of England and of the same Bailiffs Burgesses and Commonalty we do give and grant by these presents to the same Bailiffs Burgesses and Commonalty our special license: And moreover we do give 20 and grant to our said Councillor Sir (Thomas) Audeley knight Lord Audeley of Walden and our Chancellor of England the manor of Little Thurroke with appurtenances in the county of Essex and four messuages two hundred acres of land forty acres of meadow two hundred acres of pasture forty acres of wood two hundred acres of marsh and six pounds seventeen shillings and one penny rent with their appurtenances in Little Thurroke aforesaid in the County aforesaid and the advowson of the Clerch of Little Thurroke aforesaid: And also the manors of Withfeldes Fulkys with their appurtenances in the County of Essex aforesaid and twenty messuages three hundred acres of land forty acres of meadow three hundred acres of pasture one hundred acres of wood 30 three hundred acres of marsh and seven pounds and twelve pence and one halfpenny rent and the rent of five bushels of oats in Hornedon upon the Hill and Berkynge in the County aforesaid: Which same manors and other the premises formerly belonged to Thomas Sampkin Esquire deceased and came to our hands because the same Thomas who held the same manors and other the premises of us died thereof seized without heir: We give also and grant to the aforesigned Thomas Audeley all the meadow called Horsemede with its appurtenances containing by estimation twelve acres lying in Colchester in the County aforesaid and one other meadow called Cloesmede lying next Kingesmede in Colchester aforesaid and three crofts of land with appurtenances lying within 40 the town and hamlets of Colchester aforesaid in the County aforesaid one whereof is called Brokespitell lying in the hamlet of Lexdon next the street called Northstrete of Colchester aforesaid another called Eight Acres and three crofts thereof called Ten Acres lying in the hamlet of Mylende within the liberty of the town of Colchester aforesaid: And also one field called Richebery Halke and one other field called Puttikes Crouche in Colchester aforesaid and one grange with appurtenances called Petres Berne situate next the churchyard

of the church of St. Peter in Colchester aforesaid in the county aforesaid: And one piece of arable land in Colchester aforesaid extending from the lane called Holmerlane at the east head to the land called Sholand at the west head: We give also and grant to the aforesaid Thomas four messuages four gardens one grange sixty acres of land thirty acres of meadow thirty acres of pasture and twenty shillings rent with appurtenances in Colchester Lexdon Copford and Mylend aforesaid in the County aforesaid: All and singular which above said messuages lands tenements and other the premises in Colchester Lexdon Copford and Mylend aforesaid are held of us and lately belonged to the wardens or  
 10 masters and brethren and sisters of the Guild of St. Ellen founded erected and incorporated within the town of Colchester and which came to our hands because the aforesaid wardens or masters and brethren and sisters of the Guild aforesaid of their own free will were dissolved and dispersed and have no confraternity or guild but wholly refused to have a corporation of such guild or fraternity: To have and to hold all the aforesaid manors messuages lands tenements and other the premises with their appurtenances in Little Thurroke Hornedon upon the Hill Barking Colchester Copford Mylend and Lexden aforesaid and the advowson of the Church of Little Thurroke aforesaid to the aforesaid Thomas Audeley his heirs and assigns for ever: To hold of us by fealty only for all  
 20 services and demands whatsoever: And moreover we give and grant to the aforesaid Thomas all issues and profits of the aforesaid manors and other the premises in Little Thurroke Hornedon upon the Hill and Barking aforesaid from the time of the death of the aforesaid William Sampkyn and all the issues and profits of the aforesaid messuages lands tenements and other the premises in Colchester Copford Mylend and Lexden aforesaid from the time of the dissolution of the guild or fraternity aforesaid: To have to the same Thomas Audeley of our gift for his own proper use without account or any other thing for the same or for the premises or any of the premises to be rendered paid or done: And we will by these presents that as well the aforesaid Thomas Audeley as the  
 30 aforesaid Bailiffs shall have separate patents of the premises to be sealed under our Great Seal out of our hanaper without fine or fee great or small to our use there or elsewhere to be paid rendered or done: Albeit express mention &c.

Charter of Henry VIII., 12th November, 1539.

IN WITNESS (whereof) &c

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No. 3.—Translation of Charter, granted by Queen Elizabeth,  
 dated 6th July, 1584.

Charter of Queen Elizabeth, 6th July, 1584.

Queen Elizabeth's Charter for Colchester Grammar School.

A.D. 1584.

ELIZABETH by the Grace of God of England France and Ireland Queen defender of the Faith &c. To all to whom the present letters may come

Charter of Queen  
Elizabeth, 6th July,  
1581.

greeting: Know ye that whereas our very dear father the Lord Henry the Eighth late King of England by his letters patent under his great seal of England bearing date at Westminster the twelfth day of November in the thirty-first year of his reign (A.D. 1539) reciting by the same that whereas the Bailiffs Burgesses and Commonalty of his town of Colchester in the County of Essex lawfully then had and of right ought to have the advowson of the Chantry Chapel of St. Ellen in his town of Colechester aforesaid and the advowson of another Chantry in the Church of the Blessed Mary within the same town in the County aforesaid of old time erected and founded which same chantries were endowed with divers messuages lands tenements meadows pastures woods rents and other hereditaments: And that the same King desiring to convert to better uses the said chantries and the issues and profits of the aforesaid messuages lands meadows pastures rents and other the premises and considering the good intention of the Bailiffs Burgesses and Commonalty of his town aforesaid as well for erecting and establishing within the said town a free school as for relieving and maintaining the public welfare and necessity of his town aforesaid of his special grace and of his certain knowledge and mere motion and also by his royal authority of being supreme head of the English Church whereby he governed on earth did grant to John Cristemas Esquire and Thomas Cocke Bailiffs of his town aforesaid and to the Burgesses and Commonalty of the town aforesaid that they and their successors thenceforth should have hold and retain all messuages lands tenements meadows pastures woods rents reversions and services and other hereditaments whatsoever to the aforesaid Chantry of St. Ellen belonging which same Chantry was then void: To have and to hold the same messuages lands tenements meadows pastures rents reversions and services and other hereditaments to the said Chantry Chapel of St. Ellen belonging to the aforesaid Bailiffs Burgesses and their successors for ever. And also he granted by the same letters patent to the aforesaid Bailiffs Burgesses and Commonalty and their successors that whosoever the other Chantry aforesaid in the Church of the Blessed Mary aforesaid should first and next happen to be vacant for any reason that then immediately after such vacaney the aforesaid Bailiffs Burgesses and Commonalty and their successors should have hold and retain all messuages lands tenements meadows pastures woods rents and services and other hereditaments whatsoever to the same Chantry belonging: To have and to hold the same messuages lands tenements meadows pastures woods rents reversions and services and other hereditaments aforesaid with their appurtenances to the aforesaid Bailiffs Burgesses and Commonalty and their successors for ever without impeachment molestation or grievance (*gruramine*) of the Bishop of London or his successors or any ordinary of whatsoever name estate or dignity he may be claiming or challenging anything of right of collation institution or induction by reason of his office in the same chantries or in either of them: So nevertheless that the said Bailiffs Burgesses and Commonalty according to their wise discretions should lay out and distribute a part of the aforesaid messuages lands tenements pastures meadows and other the premises for erecting a certain free school in the same town and the residue for the common utility of the town aforesaid for the better payment of the fee farm of the same town. For

erecting which same free school according to the statutes and ordinances of our beloved and faithful councillor Sir Thomas Audeley knight Lord Audeley of Walden and then Chancellor of England and of the same Bailiffs Burgesses and Commonalty the aforesaid King by the same his letters patent gave and granted to the same Bailiffs Burgesses and Commonalty his special license as by the same letters patent (among other things) more fully shall and may appear: And whereas also after the grant of our aforesaid father so as is aforesaid made the aforesaid Chantry in the said Church of the Blessed Mary was vacant and the aforesaid Bailiffs and Commonalty of the aforesaid town of Colchester hitherto 10 have held and enjoyed the lands tenements and hereditaments belonging and pertaining to the aforesaid Chantry in the said Church of the Blessed Mary from the time of the vacancy of the same and the aforesaid lands tenements and hereditaments of the aforesaid Chantry Chapel of St. Helen from the time of the grant of the aforesaid letters patent and had appointed a part of the profits of the same to the yearly value of six pounds thirteen shillings and eightpence to the maintenance and sustentation of the schoolmaster in the same town for instructing and teaching the youth of the town aforesaid yet neither the aforesaid Bailiffs and Commonalty nor their successors have appointed or given for this to the (present) time any part of the aforesaid messuages 20 lands tenements and other the premises to erect any free school in the same town according to the provisions and intention in the same letters patent expressed: Neither that the aforesaid Sir Thomas Audeley knight Lord Audeley of Walden nor the Bailiffs and Commonalty in the same letters patent named have ordained and established any statutes or ordinances concerning the aforesaid free school as by a certain inquisition lately taken at Stratford Langthorne in the said County of Essex remaining in our Exchequer manifestly appears and is apparent: And whereas also divers questions and ambiguities upon the validity and force of the aforesaid letters patent have heretofore arisen and been moved not only concerning the said grant 30 of the aforesaid messuages lands tenements and other the premises so as is aforesaid granted but also because the grant aforesaid was made to the Bailiffs Burgesses and Commonalty of our town aforesaid whereas indeed the aforesaid town was incorporated and then existed by the name of the Bailiffs and Commonalty of our town of Colchester only: And whereas also the now Bailiffs and Burgesses of our town aforesaid have surrendered the said letters patent of our aforesaid father to us in our Chancery to be cancelled: Know ye that we bearing special favour towards letters and earnestly desiring the amendment of the estate and utility of our aforesaid town of Colchester which is one of the most ancient towns and boroughs of our Kingdom of England of our special 40 grace certain knowledge and of our mere motion have given and granted (and) by these presents for us our heirs and successors do give and grant to the Bailiffs and Commonalty of our town of Colchester aforesaid the aforesaid late several chantries and all messuages lands tenements meadows feedings pastures woods rents reversions services and other hereditaments whatsoever to the said late chantries lately belonging or pertaining or which were known as part parcel or member of the same chantries or either of them or were taken or reputed as part parcel or member of the same in the aforesaid letters patent by

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Charter of Queen Elizabeth, 6th July, 1584. our aforesaid father as is aforesaid made contained (and) specified as fully freely and wholly and in as ample a manner and form in quality and condition as all and singular those things came or ought to come or to have come or any parcel thereof ought to come or to have come to our hands or to the hands of our said very dear father Henry the Eighth or to our very dear brother Edward the Sixth late King of England or to the hands of our very dear sister Mary late Queen of England or to the hands of any of them by reason or title aforesaid or by pretext of any Act of Parliament or any Acts of Parliament or by whatsoever other lawful means right or title and as fully freely and wholly and in as ample a manner and form as any warden chantry priest or feoffee or any 10 wardens chantry priests or feoffees of the said Chantry Chapel of St. Ellen and the said Chantry in the Church of the Blessed Mary within the said town of Colchester or any of them or any other or others heretofore having (or) possessing the said chantries messuages lands tenements meadows feedings pastures and all and singular other the premises above by these presents aforesaid or any parcel thereof or being seized thereof ever had held or enjoyed or ought to have held or enjoyed: We give also by these presents for the consideration aforesaid and of our certain knowledge and mere motion for us our heirs and successors do grant to the aforesigned Bailiffs and Commonalty all and all 20 manner of woods underwoods and trees whatsoever growing and being of and upon the premises by these presents given and granted with their appurtenances and upon every or any parcel thereof and all the land ground and soil of the same woods underwoods and trees: To have hold and enjoy the said late chantries messuages lands tenements meadows feedings pastures woods underwoods rents reversions services hereditaments and all and singular other the premises above by these presents given and granted with all and singular all their appurtenances to the aforesigned Bailiffs and Commonalty of our said town of Colchester their successors and assigns for ever to the sole and proper use and behoof of the same Bailiffs and Commonalty their successors and assigns for ever: To hold all and singular the premises of us our heirs and successors as 30 of our manor of Estgrenewiche in our County of Kent by fealty only in free and common socage and not in chief nor by knight service for all services exactions and demands whatsoever thereupon to us our heirs or successors in whatsoever manner to be rendered paid or done: So nevertheless that the said Bailiffs and Commonalty shall commonly appoint and give a part of the aforesaid messuages lands tenements pastures meadows and other the premises for erecting a certain free school in the town aforesaid and the residue for the common utility of the town aforesaid for the better payment of the fee farm of the aforesaid town according to their wise discretions: And that our intention aforesaid as to the erection of the free school aforesaid may have the better 40 effect of our more ample grace we have given and granted and for us our heirs and successors do by these presents give and grant to the same Bailiffs and Commonalty and their successors our special licence to found and erect a free grammar school within our town aforesaid and to assign limit and convey such part of the messuages lands tenements and hereditaments aforesaid being of the clear yearly value of twenty marks or above for the maintenance of the same school for ever as to them it may seem the more expedient: We will also and

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grant that the said Bailiffs and Commonalty of our said town of Colchester and their successors may and can from time to time for ever erect name and appoint a pedagogue or schoolmaster of the school aforesaid: And moreover for the better governance and ordinance of the school aforesaid we will and grant that the Bishop of London and the Dean of the Cathedral Church of St. Paul of London and their successors for the time being from time to time may and shall be able to make fit and healthful statutes and ordinances in writing concerning and touching the ordering governance and direction of the pedagogue and scholars of the school aforesaid which same statutes and ordinances by the 10 aforesaid Bishop and Dean or their successors so from time to time to be made we will and by these presents command in all things and by all things firmly to be observed held and fulfilled by the pedagogue and scholars of the school aforesaid: Willing moreover that the said school and the pedagogue and scholars of the same for all future time may and shall be under the visitation and correction of the Bishop of London and his successors for the time being and that the aforesaid Bishop of London and his successors from time to time hereafter may and shall be able for ever to visit and survey as well the aforesaid school and the pedagogue and scholars of the same school as all and singular such messuages lands tenements and hereditaments 20 which by the aforesaid Bailiffs and Commonalty should happen to be so as is aforesaid conveyed assigned or limited to and for the maintenance of the same school and thereupon from time to time they shall cause and make the issues revenues and profits of the same messuages lands and tenements to be set apart converted and bestowed to and for the maintenance and sustentation of the said school and the pedagogue of the same for the time being according to the tenor effect and true intention of these our letters patent: And further of our more ample grace we have given and granted and by these presents for us our heirs and successors do give and grant to the aforesaid Bailiffs and Commonalty of our town of Colchester aforesaid and their successors all issues rents revenues 30 and profits of all and singular the premises with all their appurtenances from the time when the same premises or any parcel thereof came or ought to have come to the hands of our said father brother or sister or to our hands hitherto coming growing renewing or emerging: To have hold and enjoy the same to the same Bailiffs and Commonalty and their successors of our gift without account or any other thing therefor to us our heirs and successors in whatsoever manner to be rendered paid or done: And also we do further will and by these presents for us our heirs and successors do grant to the aforesaid Bailiffs and Commonalty that the said Bailiffs and Commonalty shall have these our letters patent of the premises to be sealed 40 under our great seal out of our hanaper without fine or fee great or small to our use there or elsewhere to be paid rendered or done: And that these our letters patent or the enrolment of the same shall be firm valid good sufficient and effectual in the law towards us our heirs and successors as well in all our courts as elsewhere within our Kingdom of England without any confirmations licenses or tolerations from us our heirs or successors hereafter to be procured or obtained by the aforesaid Bailiffs and Commonalty their successors and assigns. Notwithstanding the illnaming or badly reciting or not naming or not reciting

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the aforesaid messuages lands tenements and other the premises or any parcel thereof or notwithstanding the insufficiency of the inquisition or default of the inquisition of the premises by which our title ought to have been found before the making of these our letters patent: And notwithstanding any defect of the certainty computation or declaration of the true yearly value of the premises or of any parcel thereof or of the true yearly rent reserved of and upon the premises or in any parcel thereof expressed and contained in these our letters patent or notwithstanding any other defect in rightly naming or not naming of any town hamlet parish or county in which the premises or any parcel thereof are or is or in not naming the premises or any parcel thereof in 10 nature kind species or quality: Albeit express mention of the true yearly value or of the certainty of the premises or any of them or of other gifts or grants by us or any of our progenitors to the aforesaid Bailiffs and Commonalty before this time made in these presents is not made or any statute act ordinance provision or restriction to the contrary thereof made enacted ordained or provided or any other thing cause or matter whatsoever in anywise notwithstanding: IN WITNESS whereof we have caused these our letters to be made patent. Witness ourself at Westminster on the sixth day of July in the twenty-sixth year of our reign.

By writ of Privy Seal and of the date aforesaid by authority of 20  
Parliament.

Statutes, 13th  
January, 1586.

#### No. 4.—Statutes made for the government of Colchester Grammar School dated 13th January, 1586.

Statutes Ordinances and Constitutions ordained published and declared by the Reverend Father in God John Lord Bishop of London and Mr. Alexander Nowell Dean of the Cathedral Church of St. Paul in London being by Her Majesties Letters Patents under her broad seal of England for the erection of the free schoole in the town of Colchester bearing date the sixth day of July in the 26th year of Her Highness Most Gracious Raign hereunto especially appointed the thirteenth day 30 of January in the 29th year of the Raign of our said Sovereign Lady Elizabeth by the Grace of God Queen of England France and Ireland Defender of the Faith &c concerning the Schoole-master and Schollars of the Grammar Schoole in the town of Colchester and by the same Schoole master and Schollars to be observed and kept.

IMPRIMIS. That the School-master of the said Schoole shall be a Master of Arts sufficiently able to instruct and teach in Grammer Latine and Greeke both in prose and verse and to be of a sound and good religion void of all papistry

chosen according to the foundation of the town of Colchester and within one month of his election or before hee do take the place upon him hee shall by their letter be presented to the Lord Bishop of London and by him or His Lordships Chaneellor under his seal allowed as a publick teacher. Unless sufficient matter either for want of learning or of plain speech or evill behaviour in life and conversation or evill religion shall be before the said Lord Bishop objected and proved against him. And he shall bring with him to the Bishop of London a sufficient testimony either from the Master and Fellows of the College he cometh from (if he come from Cambridge or Oxford) or from two justices of <sup>Statutes, 13th January, 1556.</sup>

10 Her Majesties Peace next adjoyning to the place he cometh from if he cometh forth of the Country and shall subscribe to the Articles of Religion confirmed by Act of Parliament in the 13th year of Her Majesties Raign.

2. Item, the schoole Master or the Usher by his appointment and in his absence in the morning before he begin to teach in the school-house where the school shall be kept and every night before the scholars shall depart; shall say the Lords Prayer the Confession of Sins set forth in the beginning of the Booke of Common Prayer the Articles of Faith and the ten Commandments of Almighty God with a short prayer at the end for the encrease of learning to his scholars one other for the Queens Majesty and for the good estate of the towne <sup>20</sup> of Colchester. And all these scholars to say those prayers after him openly and audibly. Which prayers shall be drawn up by the advice and direction of the Lord Bishop of London or the Dean of Pauls. And being made and published under one of their hands shall continually be used without alteration and a table of them being fair written out shall be upp in the schoole.

3. Item, the schoole-master shall every sunday (except he have some reasonable lett) cause all his scholars to go with him to the church within the said town where the general sermon is made to the sermon if there be any such and there to continue decently and conveniently in such place as shall be appointed for his scholars to be in his sight during the time of sermon. And <sup>30</sup> on the Monday morning following to examine the same scholars how they have profited by the sermon. The Schoole master shall also have regard that all his scholars and himself shall go to the publick prayers every sunday and holiday at morning and evening prayers and there shall continue the whole time of Common Prayer and see that his scholars shall well and reverently demean themselves there.

4. Item, that the school master shall one day in the weeke reade unto his scholars publicquely in the school Mr Nowells Catechisme appointed by the injunctions to be read in every schoole either in Greek or Latine according to the capacity of his scholars and shall in such sort examine them in it as they <sup>40</sup> may out of the same be able to yield a good account of their faith.

5. Item, that the school master and usher shall with soe many of his scholars as shall by the publick Preacher of the town if there be any so found able to yield a sufficient accompt of their faith and Religion the first Sunday of

every quarter of the year present himself with them to be partakers of the Lords Table in that Parish Church which shall be appointed to the schoole: And if either himself or his usher or his scholars shall be found negligent herein upon the third admonition given unto him in whom the default shall be by the Bailiffs of the Town (unless it be upon some reasonable excuse to be allowed of by the said Bailiffs) he or they in whom the default shall be found as aforesaid to be removed from the place for ever.

6. Item, the schoole-master shall teach in that schoole the Grammer called the Kings Grammer and Latin and Greek Authors both in prose and verse such as he in his discretion shall accompt most profitable for the scholars avoiding as much as in him lieth those Authors which be rather mirseries of loosness of life and filthy behaviour than meet for honest and chast ears. And shall accustome his scholars to translate out of one language into another and once every week at the least to write epistles Theams Orations or Verses in Latine or Greek as their capacittys considered shall be thought best for exercising them.

7. Item, the schoole-master shall not take any scholair into the said schoole to be taught except he can write and read printed and written hand before his comeing thither.

8. Item, none shall be admitted or received to be a scholair in the said schoole except he be of the age of eight and under the age of twenty years nor such as shall have any incurable or infective sickness or disease or shall come from any company or place infected with the plague where the plague hath been within four months before.

9. Item, the school-master shall make weekly monitors to visit the duties manners behaviour and condition of the scholars as well in the schoole as in the church and streets and such as shall be found and presented in default the said schoole master shall correct with reasonable correction takeing accompt of the Monitors every morning how they do look to the disorders of their fellows.

10. Item, where there is appointed by the Bailiffs and Commonalty of the said towne of Colchester Sixteen free scholars born within the said town of Colchester or Liberties of the same and being the children of free Burgesses of the same to be taught and instructed in the same schoole. The said school-master shall have most care to instruct and profit the same free scholars and to preferr them in places and formes in the schoole according to their capacittys and learning if they be found either to profit better in learning or as well as their other Schoole-fellows.

11. Item, the scholars which shall be taught in the said schoole shall be present there at the schoole by seaven of the clock in the morning in the winter time and there to remaine untill eleven of the clock before noon and then to dinner. And to be at schoole again by one of the clock at afternoon and there

to remain untill five of the clock at night. And in summer to begin at six of the clock in the morning and to leave at five of the clock at night keeping the other howers as before. And from the 26th day of October unto the first day of March shall be accompted winter and from the first day of March until the 20th day of October shall be accompted summer time. And if any of the said scholars do break the same howers in comeing to schoole (having not lawfull lett) the schoole-master shall minister to such scholars reasonable correction.

Statutes, 13th  
January, 1586.

12. Item, such of the scholars of the said schoole as be reasonably able to speak and understand the Latine tongue shall always as well in the schoole as all other places speak and talke th' one to the other in their communication and talk no other language save Latine or Greeke as their knowledge shall be. And if any of them offend to the contrary to be reasonably corrected therefore by the school-master. And the monitors afore spoken of to have a speciall charge to look straightly thereto. And those Monitors to be appointed such as are able to find fault if any false Latin shall be spoken and to correct the said false Latine spoken by their fellows. Wherein the schoolemaster is to have a great care that he train up his schollars as well to speak good and pure Latine as to speak quicquid in buecam venerit least the custom of speaking false Latine in their young years draw them from pure and good Latine when they should have most use of it.

13. Item, the schoole-master shall not have in the same schoole at any time togeather above threescore Schollers. And if it shall happen to be above that number at any time the schollars that pay for their schooling and do last come to the same schoole shall be removed and refused afore any of the free schollars.

14. Item, the Archdeacon of Colchester for the time being if he be resident within a dozen miles of Colchester and such two publique allowed preachers as the Bailiffs of the Towne shall bring with them in the presence of the same Bailiffs accompanied with any other learned man which they shall bring with them twice every year that is to say the 26th day of March and the 26th day of October (if it be not Sunday) repair to the schoole and examine the said free Schollars how they do profit and if they find any of them not profitting in learning and not of capacity therefore the school-master having faithfully performed his duty the same scho'ars so found not profitting and not of capacity for learning to bee removed and their places supplied with others more apt therefore.

15. Item, the said schoole-master when any place of any of the said free scholars shall be voyd shall within fourteen days at the furthest next after such avoydance or departure of any such free scholars and after that the said schoole-master shall have knowledge or understanding of it give knowledge thereof to the Bailiffs of the said town of Colchester to the end that they may supply the same place or places with others Upon pain that the said schoole-master shall forfitt to the said Bailiffs for the time being to the use of the Poor of the said

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Towne for every such free scholar so wanting and not knowledge thereof given as aforesaid Ten shillings of lawful money of England.

16. Item, the Bailiefs of the said town for the time being shall from time to time oversee the said schoole and see and cause the said Laws and Orders to be duly observed in every article and point.

17. Item, that no scholler shall at any time bee rebellious or disobedient to the schoole-master or the Usher but shall with good obedience be ready to perform all his precepts and commandments upon pain of grevious punishment and expulsing out of the same schoole.

18. Item, that no scholler of the said schoole shall lodge or boarde at any Common Inne Taverne Alehouse or Tipling-house within the said towne of Colchester or Liberties of the same except it be the child or children of any of the inhabiteres or keepers of the said Common Inne Taverne Alehouse or Tipling-house. 10

19. Item, if any of the said free schollers doe absent himselfe from the schoole by the space of three weeks in one year (Except it be for the cause of sickness) the same free scholler soe absenting himselfe shall be displaced and another putt in his room or place.

20. Item, that the statutes and ordinances of this schoole shall be openly and audibly read in the schoole by the Usher of the same schoole four times in the year that is to say Quarterly the first Munday after the Feast of the Annunciation the first Munday after the Feast of St. John Baptist the first Munday after the Feast of St. Michael and the first Munday after the Feast of the Epiphany immediately after the meeting of the scholars in the forenoon of the same days in the school. 20

21. Item, if the schoole-master shall after he is placed enter into the Ministry and accept eyther of any benefice cure preacher-shipp either in the town of Colchester or out of the Town another schoole-master to be chosen by the Bailiefs of the said town within six weeks after knowledge had thereof and to be presented to the Bishop as by the first article is appointed. 20

No. 5.—Order of the Bishop of London, dated  
11th June, 1638.

Bishop of London's  
Order, 11th June,  
1638.

An Order made the 11th day of January, 1638, by the Right Worshipful Dr. Aylett Commissary to the Rt. Revd. Father in God William Lord Bishop of London official of the Archdeaconry of Colchester.

WHEREAS an order was formerly made by the Revd Father in God John Bishop of London and Mr Alex Nowell Dean of the Cathedral Church of St Paul London in the 29th year of the Reign of Queen Elizabeth "That the School Master of the free schoole of Colchester shoule every sunday cause all his scholars to go with him to the church to the general sermon and there to continue decently and conveneintly in his sight during the time of the sermon. It is now thought fitt and ordered that while there is no general sermon the schoolemaster for the fulfilling of the aforesaid order shall cause all his Schollers every sunday and Holydays to go with him to the service and sermon at the Parish Church whereto the school belongs and there see them quietly and soberly to behave themselves during the time of divine service and sermon and shall examine them at times convenient after their return what they have bin away of such sermon as they shall hear and this we require the schoolmaster from time to time to perform. Given under our hand this 11th day of Jany 20 A.D. 1638.

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No. 6.—Statutes for the Government of Colchester Grammar School, dated 11th July, 1844.

Statutes, 11th  
July, 1844.

STATUTES AND ORDINANCES FOR THE GOVERNMENT OF THE FREE  
GRAMMAR SCHOOL.

Ordained published and declared by the Right Reverend Fathers in God Charles James Lord Bishop of London and Edward Lord Bishop of Llandaff Dean of the Cathedral Church of St. Paul in London the Eleventh day of July in the year of Our Lord 1844.

WE ORDAIN AND DECREE—

30 1. That the Statutes Ordinances and Constitutions published and declared by the then Bishop of London and the Dean of St Paul's in the 26th year of the reign of Queen Elizabeth shall be repealed and the same are hereby repealed accordingly.

Statutes, 11th July,  
1844.

2. That the schoolmaster of the said school be a graduate of one of the English Universities in Holy Orders but not possessed of any benefice that he be chosen according to the foundation of the borough of Colchester and presented to the Lord Bishop of London within one month from the day of his election for his Lordship's license.
3. If the schoolmaster shall accept and take any benefice his place shall become void and another schoolmaster shall be chosen within six weeks after knowledge had thereof and shall be presented to the Bishop for his license.
4. That Morning and Evening Prayers shall be daily read by the master before the business of the school commences and when it is finished according to 10 a form to be approved of by the Bishop and that a short portion of Holy Scripture be read at such prayers.
5. That the scholars shall attend church on Sundays with their respective parents or friends but that the boarders if any shall accompany the Master to church.
6. That the scholars shall receive instruction two days at least in the week in the Holy Scriptures and in the doctrines of the Church of England as set forth in the Articles of Religion the Catechism and the Book of Common Prayer and that every scholar who shall have attained the age of sixteen years shall after due preparation by the master be presented to the Bishop for 20 confirmation.
7. That it shall be left to the schoolmaster to determine subject to the direction and approval of the visitor what course of classical teaching shall be followed in the school.
8. That in addition to the teaching of Latin and Greek authors and composition in prose and verse the scholars shall receive instruction in Ancient and Modern History and Geography Arithmetic the elements of Geometry and such other branches of knowledge as the visitor may from time to time prescribe.
9. That the Master shall not be required to admit any boy into the School 30 unless he can read and spell so as not to need further instruction in those particulars and also write a fair hand.
10. That the number of free scholars shall for the present be limited to twenty subject to an extension of that number by the visitor when the annual income of the school arising from endowment shall be sufficiently increased to admit of such extension. Such free scholars shall be chosen by the Mayor Aldermen and Council from among the children of the inhabitants of the Borough at large and if the candidates for admission as free scholars be more at any one time than can be admitted the best proficients shall be preferred for admission and that no distinction shall be made by the master between the free scholars 49 and those who pay.

11. That the hours of attendance at school shall be according to a table to be prepared by the master and approved by the visitor. Statutes, 11th July, 1814.

12. There shall be five weeks holydays at midsummer four weeks at Christmas and one week at Easter and no more but the Mayor of Colchester for the time being with the consent of the Master shall have authority to give the scholars a holyday on any occasion of public solemnity or rejoicing whether national or local.

13. That there shall not be more than sixty scholars in the school at any one time without the visitor's consent.

10 14. That there shall be holden immediately before the summer or winter holydays every year an examination of the scholars in all the various branches of instruction especially in those which pertain to religion. Such examination shall be conducted by one or more Clergymen appointed by the Archdeacon of Colchester who shall be requested himself to preside at such examination and the Mayor Aldermen and Council shall be invited to attend.

15. That the schoolmaster when the place of the free scholars shall be void shall within fourteen days of such a voidance give notice thereof to the Mayor that the same may be filled up.

16. That the Mayor of Colchester together with the Senior Alderman and 20 the Rural Dean shall from time to time oversee the said school and cause these statutes to be observed in every article.

17. That the schoolmaster shall have authority to punish disobedient scholars and if necessary to expel them from the school subject to an appeal to the visitor.

18. That if any of the free scholars shall absent himself from the school for the space of three weeks in one year (except it be for the cause of sickness) he shall be displaced and another shall be appointed in his room.

19. That a printed copy of the statutes be hung up in the Town Hall and another copy in the schoolroom together with a list of the free scholars with 30 the dates of their respective admissions.

Given under our hands and seals this 11th day of July in the year of our Lord one thousand eight hundred and forty-four

C. J. LONDON.



E. LLANDAFF.



Letter from Charity  
Commissioners to  
Mr. Wanklyn, 31st  
March, 1894.

No. 7.—Letter from the Secretary of the Charity Commission to H. C. Wanklyn, Esqre., the Town Clerk of Colchester, dated 31st March, 1894.

Charity Commission  
31st March 1894.

County—Essex.  
Place—Colchester  
Grammar School.

SIR,—

I am directed by the Charity Commissioners to state for the information of the Town Council that owing to their failure to obtain the consent of the several Governing Bodies of the above-named endowment to the terms of the compromise proposed in the published draft scheme the Commissioners have been constrained to determine the question whether the endowment does or does not fall within the provisions of Section 19 of the Endowed Schools Act 1869 and they are of opinion that the endowment does so fall.

The consequence of this decision is that apart from consent the Commissioners are precluded by statute from introducing into the scheme “any provision respecting the religious instruction or attendance at religious worship of the scholars” (other than a provision giving exemption to day scholars on whose behalf it is claimed from attending prayer or religious worship or lessons on a religious subject) “respecting the religious opinions of the Governing Body or Masters.”

The following clauses of the scheme will therefore be struck out—viz., Clauses 2, 31, 52, 53, (except so much as secures the exemption above referred to) and words will be inserted disclaiming (subject as above mentioned) all interference with subsisting legal requirements respecting the religious instruction or attendance at religious worship of the scholars or the religious opinions of the Governing Body or Masters.

30.

On consideration of the various objections and suggestions received since the publication of the draft scheme the Commissioners have modified the Governing Body by fixing the representation of the Town Council at five absolutely instead of six reducible in a probable contingency to four by substituting for the two representatives of the parents two representatives of the County Council and with the view of meeting the demand for an expert by adding a nominee of King’s College London.

With these amendments the Commissioners propose to submit the scheme in due course to the Education Department.

I am however to point out that Clauses 2, 31, and 53 (in its entirety) as to which there appears to be no controversy can be retained if the several Governing Bodies assent to the scheme with such retention. In order to afford opportunity for the expression of such assent the Commissioners will wait for a period of four weeks before submitting the scheme to the Education Department.

Letter from Charity Commissioners to Mr. Wanklyn, 31st March, 1891.

A similar letter is being sent to the other Governing Bodies.

I am Sir,

Your obedient servant

10 (Signed) J. E. WHITE.

H. C. WANKLYN, Esqre  
Town Hall Colchester.

—  
Scheme, 18th  
January, 1895.

## No. 8.—Scheme Prepared by the Charity Commissioners.

SUBMITTED TO THE COMMITTEE OF COUNCIL ON EDUCATION.

No. 790.

County.—Essex.  
Borough.—Colchester.  
Endowment.—Grammar School.

20 E  
45,00~~5~~.

### CHARITY COMMISSION.

*In the Matter of* the Foundation known as the Grammar School in the Borough of Colchester in the County of Essex founded by Charter or Letters Patent of King Henry the Eighth dated the 12th November 1539 and re-founded by Letters Patent of Queen Elizabeth dated the 6th July 1584; and

*In the Matter of* the Endowed Schools Acts 1869, 1873, and 1874.

### SCHEME FOR THE ADMINISTRATION OF THE ABOVE-MENTIONED FOUNDATION.

1. This Foundation and its endowment (consisting of the particulars specified in the schedule hereto and all other the endowment if any of the said

Future administration of Foundation.

## Scheme.

— Foundation) shall henceforth be administered under this Scheme by the Governing Body hereinafter constituted under the name of the Colchester Royal Grammar School hereinafter called the Foundation.

## GOVERNORS.

Religious opinions of  
Governing Body.

2. Religious opinions or attendance or non-attendance at any particular form of religious worship shall not in any way affect the qualification of any person for being one of the Governing Body under this scheme.

Governing Body.

3. The Governing Body hereinafter called the Governors shall ultimately consist of fifteen competent persons viz :—

One Ex-Officio Governor,

10

Eleven Representative Governors, and

Three Co-optative Governors.

Ex-officio Governor.

4. The Ex-Officio Governor shall be the Mayor for the time being of the Borough of Colchester.

Representative  
Governors.

5. The Representative Governors shall be appointed as follows :—

Five being Members of the Town Council of the said Borough by the said Town Council ;

Two by the Essex County Council ;

One by the Lord Bishop for the time being of the Diocese of St. Albans ;

20

One by the Council of King's College London ;

One by the School Board of Colchester ; and

One by the Managers of the Public Elementary Schools in the borough of Colchester not provided by the School Board.

Each appointment of a representative Governor shall be made subject as herein provided for a term of five years.

Every appointment by an electing body shall be made at a meeting convened and held as nearly as may be in accordance with the ordinary rules or practice of the body or in case of need or doubt in accordance with rules to be made or approved by the Charity Commissioners. The said Bishop on 30

appointing a Governor or the Chairman of each meeting at which a Governor is appointed shall forthwith cause the name of each person appointed to be notified to the Governors.

6. The first representative governors shall be appointed as soon as conveniently may be after the date hereof and their names shall be notified to the Mayor of the Borough of Colchester.

7. The survivors of the persons who by virtue of an order of the Charity Commissioners of 1867 were constituted the trustees for the administration of the Charity called the Grammar School in the borough of Colchester shall be Co-optative Governors and shall be entitled subject to the provisions hereinafter contained with respect to determination of Governorship to hold office for eight years from the date of this scheme. Every other Co-optative Governor shall be appointed for a term of six years by a resolution of the Governors to be passed at a special meeting.

8. No person shall be entitled to act as a Governor whether on his first or any subsequent entry into office until he has signed in the minute book of Governors a declaration of acceptance and of willingness to act in the trusts of this scheme.

9. Any representative or Co-optative Governor who is adjudicated a Bankrupt or who refuses or is unfit or is incapacitated to act or who communicates in writing to the Governors his wish to resign or who is absent from all meetings of the Governors during a period of one year and any Representative Governor appointed by the Town Council ceasing to be a member of that Council shall thereupon cease to be a Governor.

10. Upon the occurrence of a vacancy the Governors shall at their next meeting cause a note thereof to be made in their minute book and in the case of a vacancy in the office of Representative Governor shall cause notice thereof to be given as soon as possible to the proper appointing person or electing body. Any competent Governor may be reappointed. There shall be no vacancy in the office of Co-optative Governor except when the number of Co-optative Governors is less than three.

#### MEETINGS AND PROCEEDINGS OF GOVERNORS.

11. The Governors shall hold at least two ordinary meetings in each year.

Ordinary meetings.

12. The Governors shall at their first ordinary meeting in each year elect one of their number to be Chairman of their meetings for the year. They shall make regulations for supplying his place in case of his death, resignation or absence. The Chairman shall always be re-eligible.

Chairman.

Scheme.  
—  
Special meetings.

13. A special meeting may at any time be summoned by the Chairman or any two Governors upon four days' notice being given to all the other Governors of the matter to be discussed.

Quorum.

14. Subject as herein provided there shall be a quorum when five Governors are present at a meeting.

Voting.

15. Every matter subject as herein provided shall be determined by the majority of the Governors present and voting on the question. In case of equality of votes the Chairman shall have a second or casting vote.

Rescinding  
resolutions.

16. Any resolution of the Governors may be rescinded or varied at a special meeting.

10

Adjournment of  
meetings.

17. If at the time appointed for a meeting a sufficient number of Governors to form a quorum are not present or if at any meeting the business is not completed the Governors present may adjourn the meeting to a day and time of which if the meeting is adjourned for more than two days notice shall forthwith be delivered or sent by post to each Governor.

Minutes and  
accounts.

18. A Minute Book and books of account shall be provided and kept by the Governors. The Governors shall make out and render to the Charity Commissioners such accounts as shall be required by them. On rendering accounts for any year the Governors shall exhibit for public inspection in some convenient place in Colchester copies of the accounts so rendered for such year giving due public notice where and when the same may be seen and shall at all reasonable times allow the accounts so rendered for any year or years to be inspected and copies thereof or extracts therefrom to be made by all persons applying for the purpose.

20

General power to  
make regulations.

19. Within the limits prescribed by this scheme the Governors shall have full power from time to time to make regulations for the management of the foundation and for the conduct of their business including the summoning of meetings the deposit of money at a proper bank the drawing of cheques the custody of documents and the appointment during their pleasure at such a rate of remuneration as shall be approved by the Charity Commissioners of a clerk or of any necessary officers but no Governor acting as such clerk or officer shall receive any remuneration.

30

#### PROVISIONS AS TO PROPERTY.

VESTING PROPERTY.

20. Any freehold or leasehold lands or hereditaments belonging to the Foundation not already vested in the Official Trustee of Charity Lands are hereby vested in the said Official Trustee for all the estate and interest of the Foundation therein. All stocks shares funds and securities belonging to the Foundation shall be forthwith transferred under the authority of an order

of the Charity Commissioners into the name of the Official Trustees of Charitable Funds. The Governors and all other persons capable of being bound by this scheme shall unless the Charity Commissioners otherwise order do all such acts as may be necessary in order to vest in the Official Trustee of Charity Lands all freehold and leasehold land and hereditaments and to transfer to the Official Trustees of Charitable Funds all stocks shares funds and securities which may hereafter belong to the Foundation.

21. The Governors may receive any additional donations or endowments for the general purposes of the Foundation. They may also receive donations or endowments for any special objects connected with the Foundation which shall not be inconsistent with or calculated to impede the due working of the provisions of this scheme. Any question arising upon this last point shall be referred to the Charity Commissioners for decision.

22. The property of the foundation not occupied for the purposes thereof shall be let or otherwise managed by the Governors or by their agents acting under their orders according to the general law applicable to the management of property by trustees of charitable foundations. All payments for rates taxes repairs and insurance of or in respect of any such property occupied for the purposes of the Foundation shall so far as not otherwise provided for be made out of the income of the foundation.

23. Any money arising from the sale of timber or from any mines or minerals on the estates of the Foundation shall be treated as capital and shall be invested in the name of the Official Trustees of Charitable Funds under the direction of the Charity Commissioners except in any special cases in which the Governors may be authorised by such Commissioners to deal otherwise with such money or any part thereof.

24. Nothing in this scheme shall affect any order of the Charity Commissioners now in force so far as it makes provision for the discharge of any mortgage debt on any property of the Foundation or for the replacement of any stock or money advanced out of the funds of the Foundation.

25. As soon as conveniently may be such a sum of Government stock belonging to the Foundation as will produce an income of £20 a year for the time being or as near that sum of stock as practicable shall be placed to a separate account entitled "Repairs and Improvements Fund." The income of such fund shall be paid to the Governors and applied by them in ordinary repairs or improvements of property used for the purposes of the school and if not wanted for that purpose shall be accumulated for the like purpose in any future year or years. Until the income of the Repairs and Improvements Fund amounts to £20 a year it shall be made up to that amount out of the general income of the Foundation.

26. Any income of the Foundation remaining in hand at the end of any Residue.

Scheme.

—  
year and not needed as a balance for meeting current expenses shall treated as capital and be invested in the name of the Official Trustees of Charitable Funds in trust for the Foundation in augmentation of its endowment.

Transfer of  
administration  
of Foundation to  
Governors.

## TRANSITORY PROVISIONS.

First meeting.

27. Until the completion of the full number of Representative Governors or the expiration of the first three calendar months from the date of this scheme or such further period as shall be sanctioned by an order of the Charity Commissioners made upon the application of one or more of the present Governing Body or of the Governors the present Governing Body shall remain unaltered and shall retain such powers as will enable them to administer the Foundation 10 in the meantime under this scheme but on the day of such completion or expiration whichever first happens (hereinafter called the appointed day) shall become *ipso facto* discharged from their office and the administration of the Foundation shall pass to the Governors.

Temporary school  
arrangements.

28. The first meeting of the Governors shall be summoned by the Mayor of the Borough of Colchester as soon as possible after the appointed day or if he shall fail to summon a meeting for one calendar month after the appointed day by any two Governors. The Meeting shall be held as soon as conveniently may be but within two calendar months after the appointed day or within such further period as shall be sanctioned by an order of the Charity Commissioners 20 made upon the application of any one or more of the Governors. At this meeting the Governors shall elect one of their number to be Chairman and shall make arrangements for the conduct of business.

Saving of interests  
of scholars.

29. So far as may be not inconsistent with anything contained in the Endowed Schools Acts, 1869, 1873, and 1874, the School may be carried on as heretofore until the end of the School term if any current at the date of this scheme, or until such other time as may with the approval of the Charity Commissioners be fixed by the body for the time being having the administration of the School under the scheme.

30. Any holder of a Foundation Scholarship in the School awarded before 30 the date of this scheme shall be entitled to hold the scholarship as if this scheme had not been made.

Day and boarding  
school for boys.

## THE SCHOOL.

31. The School of the Foundation shall be a day and boarding school for boys, and shall be maintained in or near the Borough of Colchester, in the present school buildings, or in other suitable buildings hereafter to be provided for the purpose by the Governors.

## TEACHING STAFF AND SCHOOL ARRANGEMENTS.

Scheme.

32. No person shall be disqualified for being a Master in the School by reason only of his not being or not intending to be in Holy Orders. Masters need not be in Holy Orders.

33. There shall be a Head Master of the School. He shall be a Graduate of some University in the United Kingdom and if not in Holy Orders shall on appointment sign a declaration that he is a member of the Church of England. Head Master, appointment.

Every Head Master shall be appointed by the Governors at a special meeting to be held as soon as conveniently may be after a vacancy or after notice of an intended vacancy. In order to get the best candidates the 10 Governors before making any appointment shall give public notice of the vacancy and invite applicants for the office by advertisements in newspapers or by such other means as they may judge best calculated to secure the object.

34. The Governors may at pleasure dismiss the Head Master without assigning cause after six calendar months' written notice given to him in pursuance of a resolution passed at two special meetings held at an interval of not less than fourteen days such resolution being affirmed at each meeting by not less than two-thirds of the Governors present and voting on the question. Dismissal at pleasure.

35. The Governors for what in their opinion is urgent cause may by a resolution passed at a special meeting and affirmed by not less than two thirds 20 of the whole number of the Governors for the time being declare that the Head Master ought to be dismissed from his office as in this clause provided and in that case they may appoint a second special meeting to be held not less than a week after the first and may by a like resolution passed at such second meeting and affirmed by not less than two thirds of the whole number of Governors for the time being thereupon absolutely and finally dismiss him. If at the first of such meetings the Governors think fit at once to suspend the Head Master from his office until the second of such meetings they may so suspend him by a resolution affirmed by not less than two thirds of the whole number of Governors for the time being. Full notice and opportunity of defence at both 30 such meetings shall be given to the Head Master. Dismissal for cause.

36. Every Head Master before taking office under this scheme shall sign a declaration to be entered in the minute book of the Governors to the following effect:— Declaration by Head Master.

“I declare that I will always to the best of my ability discharge the duties of Head Master of the Colchester Royal Grammar School during my tenure of office and that if I am removed therefrom I will thereupon acquiesce in such removal and relinquish all claim to the Mastership and its future emoluments and deliver up to the Governors or as they direct possession of all the property of the school then in my possession or occupation.”

Scheme.  
—  
Head Master's  
official residence.

Head Master not to  
have other employ-  
ment.

Masters not to be  
Governors.

Masters not to receive  
other than authorised  
fees.

Jurisdiction of  
Governors over  
school arrangements.

Views and proposals  
of Head Master.

Jurisdiction of Head  
Master over school  
arrangements.

37. The Head Master shall dwell in the residence if any assigned for him. The occupation and use of such residence and of any other property of the Foundation occupied by him as Head Master shall be had by him in respect of his official character and duties and not as tenant and if he is removed from his office he shall deliver up possession of such residence and other property to the Governors or as they shall direct. He shall not except with the permission of the Governors permit any person not being a member of his family to occupy such residence or any part thereof.

38. The Head Master shall give his personal attention to the duties of the School and shall not hold any benefice having the cure of souls or undertake any office or employment interfering with the proper performance of his duties as Head Master. 10

39. No Head Master or Assistant Master of the School shall be a Governor.

40. No Head Master or Assistant Master shall receive or demand from any scholar in the School or from any person whomsoever on behalf of any such scholar any gratuity fee or payment except such as are prescribed or authorised by or under this scheme.

41. Within the limits fixed by this scheme the Governors shall prescribe the general subjects of instruction the relative prominence and value to be assigned to each group of subjects the arrangements respecting the School terms 20 vacations and holidays the payments of day scholars and the number and payments of boarders. They shall take general supervision of the sanitary condition of the school buildings and arrangements. They shall fix the number of Assistant Masters to be employed. They shall every year fix the amount which they think proper to be paid out of the income of the Foundation for the purpose of maintaining Assistant Masters and providing and maintaining a proper school plant or apparatus.

42. Before making any regulations under the last foregoing clause the Governors shall consult the Head Master in such a manner as to give him full opportunity for the expression of his views. The Head Master may also from time to time submit proposals to the Governors for making or altering regulations concerning any matter within the province of the Governors. The Governors shall fully consider any such expression of views or proposals and shall decide upon them. 30

43. Subject to any rules prescribed by or under the authority of this scheme the Head Master shall have under his control the choice of books the method of teaching the arrangement of classes and school hours and generally the whole internal organisation management and discipline of the School including the power of expelling boys from the School or suspending them from attendance thereat for any adequate cause to be judged of by him but on expelling or suspending any boy he shall forthwith report the case to the Governors. 40

Scheme.

Assistant Masters  
and payments for  
school objects.

44. The Head Master shall have the sole power of appointing and may at pleasure dismiss all Assistant Masters. He shall determine subject to the approval of the Governors in what proportions the sum fixed by the Governors for the maintenance of Assistant Masters and school plant and apparatus shall be divided among the various objects for which it is fixed in the aggregate; and the Governors shall pay the same accordingly either through the hands of the Head Master or directly as they think best.

45. The Head Master shall receive a fixed yearly stipend of £150. He shall also receive a capitation payment calculated on such a scale uniform or graduated as may be fixed from time to time by the Governors at the rate of not less than £3 nor more than £5 a year for each boy in the School.

46. The Governors may if they think fit and the income at their disposal suffice for the purpose agree with the Head Master for the formation of a fund in the nature of a pension or superannuation fund to be invested in the name of the official trustees of Charitable Funds the main principles of such agreement being that the Head Master and the Governors respectively shall contribute yearly for a period of twenty years such sums as may be agreed on that these contributions shall accumulate at compound interest that in case the Head Master serves his office for such twenty years he shall on his retirement be entitled to the whole accumulated fund that in case he retires earlier on account of permanent disability from illness he shall also be entitled to the whole of the same fund that in all other cases he shall on his ceasing to be Head Master be entitled to the amount produced by his own contributions.

Pension fund.

#### SCHOLARS AND SCHOOL FEES.

47. No boy shall be admitted to the School under the age of eight years. No boy shall remain in the School after the age of seventeen years or if he attains that age during a school term, then after the end of such term except with the permission of the Governors which in special cases may be given until the age of eighteen years upon the written recommendation of the Head Master.

Ages for school.

48. Subject to the provisions established by or under the authority of this scheme the School and all its advantages shall be open to all boys of good character and sufficient health who are residing with their parents guardians or near relations within degrees of kindred to be fixed by the Governors or are boarding under regulations made by the Governors either in a hostel of the Foundation or in the house of any Master. No boy not so residing or boarding shall be admitted to the School without the special permission of the Governors.

To whom school is  
open.

49. Applications for admission to the School shall be made to the Head Master or to some person appointed by the Governors according to a form to be approved by them and delivered to all applicants.

Applications for  
admission.

## Scheme.

## Register of applications.

## Entrance examination.

50. The Head Master or some person appointed by the Governors shall keep a register of applications for admission showing the date of every application and of the admission withdrawal or rejection of the applicant and the cause of any rejection and the age of each applicant.

51. Every applicant for admission shall be examined by or under the direction of the Head Master. The Head Master shall appoint convenient times for that purpose and give reasonable notice to the parents or next friends of the boy to be so examined. No boy shall be admitted to the School except after undergoing such examination and being found fit for admission. Those who are so found fit shall if there is room for them be admitted in order according to 10 the dates of their application. The examination for admission shall be graduated according to the age of the boy and shall be regulated in other particulars from time to time by or under the direction of the Governors but it shall never fall below the following standard that is to say:—

Reading;

Writing from dictation;

Sums in the first four simple rules of Arithmetic with the Multiplication Table.

## Tuition and boarding fees.

52. All boys, including boarders, except as herein provided, shall pay tuition fees, to be fixed from time to time by the Governors, at the rate of not 20 less than £8, nor more than £15 a year for any boy. No difference in respect of tuition fees shall be made between any scholars on account of place of birth or residence, or of their being or not being boarders. The payments of boarders apart from the tuition fees shall be at the rate of not more than £45 a year for any boy. No extra or additional payment of any kind shall be allowed without the sanction of the Governors and the written consent of the parent or person occupying the place of parent of the scholar concerned. All payments for tuition fees shall be made in advance to the Head Master or to such other person as the Governors shall from time to time appoint, and shall be accounted for by the person receiving them to the Governors, and be treated by them as 30 part of the general income of the Foundation.

## INSTRUCTION AND EXAMINATION.

## Religious instruction and worship.

53. Subject as hereinafter provided with regard to the exemption of scholars from attending prayer or religious worship or lessons on a religious subject nothing in this scheme shall affect any legal requirement now in force respecting the religious instruction or attendance at religious worship of the scholars or be taken to relate in any way directly or indirectly to such religious instruction or attendance.

## Religious exemptions.

54. The parent or guardian of or person liable to maintain or having the actual custody of any scholar attending the School as a day scholar may claim 40 by notice in writing addressed to the Head Master the exemption of such

scholar from attending prayer or religious worship or from any lesson or series of lessons on a religious subject and such scholar shall be exempted accordingly and a scholar shall not by reason of any exemption from attending prayer or religious worship or from any lesson or series of lessons on a religious subject be deprived of any advantage or emolument in the school or out of the endowment of the Foundation to which he would otherwise have been entitled.

If the parent or guardian of or person liable to maintain or having the actual custody of any scholar who is about to attend the school and who but for this clause could only be admitted as a boarder desires the exemption of such 10 scholar from attending prayer or religious worship or from any lesson or series of lessons on a religious subject but the persons in charge of the boarding houses of the school are not willing to allow such exemption then it shall be the duty of the Governors to make proper provisions for enabling the scholar to attend the school and have such exemption as a day scholar without being deprived of any advantage or emolument to which he would otherwise have been entitled.

If any teacher in the course of other lessons at which any scholar exempted under this clause is in accordance with the ordinary rules of the school present shall teach systematically and persistently any particular religious doctrine from 20 the teaching of which any exemption has been claimed as in this clause before provided the Governors shall on complaint made in writing to them by the parent guardian or person liable to maintain or having the actual custody of such scholar hear the complainant and inquire into the circumstances and if the complaint is judged to be reasonable make all proper provisions for remedying the matter complained of.

55. Instruction shall be given in the school in the following subjects:—

Instruction.

30 Reading Writing and Arithmetic;  
Geography and History;  
English Grammar Composition and Literature;  
Mathematics;  
Latin;  
At least one modern foreign European Language;  
Natural Science;  
Drawing;  
Vocal Music;  
Drill or other Physical Exercises.

40 Greek may be taught at an additional fee at the rate of not less than £3 a year for each boy. Subject to the provisions of this scheme the course of instruction shall be according to the classification and arrangements made by the Head Master.

56. There shall be once in every year an examination of the scholars.

Yearly examination.

Scheme.

Head Master's  
yearly report.

Prizes.

Scholarships.

Exhibitions.

General conditions  
as to scholarships  
and exhibitions.

The Examiner or Examiners shall except as herein provided be appointed or approved by the Governors but shall be otherwise unconnected with the school. In any year the Charity Commissioners may by an Order direct that the Examiner or Examiners shall for that year be appointed in any other manner and the Examiner or Examiners shall for that year be appointed in the manner so directed. The day of Examination shall be fixed by the Governors after consulting the Head Master. The Examiner or Examiners shall report in writing to the Governors on the proficiency of the scholars and on the condition of the school as regards instruction and discipline, as shewn by the result of the examination. The cost of the examination shall be paid by the Governors out of the income of the Foundation. The Governors shall send a copy of the report to the Head Master and to the Charity Commissioners.

57. The Head Master shall make a report in writing to the Governors yearly at such time as they shall direct on the general condition and progress of the school and on any special occurrences during the year. He may also mention the names of any boys who in his judgment are worthy of reward or distinction having regard both to proficiency and conduct.

58. The Governors may reward prizes of books or other suitable rewards as marks of distinction to any boys mentioned as worthy of reward or distinction by the Head Master or by the Examiner or Examiners.

20

#### SCHOLARSHIPS AND EXHIBITIONS.

59. Ten Scholarships to be called Foundation Scholarships each entitling the holder to exemption total or partial from the payment of tuition fees shall be maintained in the school. In the award of at least one half of these Scholarships preference shall be given to boys who are and have for not less than three years been scholars in some public elementary school or schools in the borough of Colchester. Every Scholarship awarded to a scholar from a public elementary school shall entitle the holder to total exemption from the payment of tuition fees and to be supplied with all necessary school books free of charge.

30

60. The Governors shall if the income will allow maintain Exhibitions tenable at any institution of higher education approved by them and to be awarded to boys who then are and have for not less than two years been in the school.

61. The Scholarships and Exhibitions shall be established in such manner and order as to secure as nearly as may be a regular rotation of award and subject as herein provided shall be awarded under such regulations and conditions as the Governors think fit. Every Scholarship and Exhibition shall be given as the reward of merit on the result of such examination as the Governors think fit and shall except as herein provided be freely and openly 40 competed for and shall be tenable only for the purposes of education. Any Scholarship or Exhibition for which there shall be no duly qualified candidate who on examination shall be adjudged worthy to take it shall for that turn not be awarded.

62. If the holder of a Scholarship or Exhibition shall in the judgment of <sup>Deprivation.</sup> the Governors be guilty of serious misconduct or idleness or fail to maintain a reasonable standard of proficiency or wilfully cease to pursue his education the Governors may deprive him of the Scholarship or Exhibition and for this purpose in the case of an Exhibition may act on the report of the proper authorities of the Institution at which the Exhibition is held or on such other evidence as the Governors think sufficient. Under this clause the decision of the Governors shall be final in each case.

#### GENERAL PROVISIONS.

10 63. So far as relates to the Foundation all jurisdiction of the Ordinary <sup>Jurisdiction of</sup> relating to or arising from the licensing of masters in any endowed school is <sup>Ordinary, abolished.</sup> hereby abolished.

64. From the date of this scheme all rights and powers reserved to <sup>Jurisdiction of</sup> visitor. belonging to claimed by or capable of being exercised by any person or body other than Her Majesty the Queen as Visitor of the Foundation shall be transferred to Her Majesty and all such rights and powers and also any like rights or powers vested in Her on the 2nd August 1869 shall be exercised only through and by the Charity Commissioners.

20 65. From and after the date of this scheme the Foundation shall for every purpose except as in this scheme provided be administered and governed wholly and exclusively in accordance with the provisions of this scheme notwithstanding any former or other scheme Act of Parliament Charter or Letters Patent statute or instrument relating to the subject matter of this scheme. <sup>Foundation to be governed exclusively by this scheme.</sup>

66. The Governors shall cause this scheme to be printed and a copy to be given to every Governor Head Master and other teacher upon his entry into office and copies may be sold at a reasonable price to all persons applying for the same. <sup>Scheme to be printed and sold.</sup>

30 67. The Charity Commissioners may from time to time in the exercise of <sup>Alteration of</sup> scheme. their ordinary jurisdiction frame schemes for the alteration of any portions of this scheme provided that such schemes be not inconsistent with anything contained in the Endowed Schools Acts 1869 1873 and 1874.

68. Any question as to the construction of this scheme or as to the regularity or the validity of any acts done or about to be done under this scheme shall be determined conclusively by the Charity Commissioners upon such application made to them for the purpose as they think sufficient. <sup>Questions under scheme.</sup>

69. The date of this scheme shall be the day on which Her Majesty by <sup>Date of scheme.</sup> Order in Council declares her approbation of it.

## SCHEDULE OF PROPERTY.

| DESCRIPTION.   | EXTENT<br>OR<br>AMOUNT. | TENANT<br>PERSON LIABLE OR<br>PERSON IN WHOSE NAME<br>INVESTED.  | GROSS YEARLY<br>INCOME.         |
|--|-------------------------|--|---------------------------------|
| The School Land and Buildings ...  | A. R. P.<br>—           | In hand  | £ S. D.                         |
| Three Shops in Head Street, Colchester   | —                       | N. Sands (lease 21 years from<br>29th September 1880)  | 200 0 0                         |
| Five Cottages in Balkerne Lane ...   | —                       | Mrs Pegg<br>T. Cox<br>R. Williams and Dowrick<br>J. Ham<br>J. Jacques<br>(all weekly)<br>R. Windsor<br>R. Hockley<br>(both yearly) | 48 2 0 10                       |
| Two Tenements in rear of above ...   | —                       | John Smith (yearly) ...  | 30 0 0                          |
| Piece of Land in Clay Lane leading<br>off the Mayland Road which adjoins<br>the Bergholt Road Colchester   | 8 2 0                   |  | 12 0 0                          |
| Piece of Land in Layer Breton Essex  | 16 1 32<br>£ S. D.      | George Root (yearly) ...   | 8 5 0                           |
| New Consols ... ... ... ...  | 1,019 18 2              | Philip Oxenden Papillon and<br>John Bawtree  | 28 0 8                          |
| New Consols Investment Account to<br>which a sum of £233 6s. 8d. Stock was<br>transferred to replace £98 17s. 9d.<br>Stock under Order of the Charity<br>Commissioners of the 19th October<br>1883 | 318 1 1                 | Official Trustees of Charity<br>Funds  | Dividends<br>accumulating<br>30 |
| New Consols Investment Account to<br>which a sum of £128 6s. 9d Stock was<br>transferred to replace £89 18s. 2d.<br>Stock under Order of the Charity<br>Commissioners of the 29th March<br>1887    | 156 15 1                | Do. do.  | Do.                             |

This schedule is made up to the 1st December 1894.

40

Charity Commission  
15th January 1895.

At a meeting of the Beard held this day at which there were present six Commissioners of whom one was the Chief Commissioner this scheme was approved and directed to be submitted to the Committee of Council on Education.

D. R. FEARON, Secretary.

No. 9.—Affidavit of Edward Kershaw Francis, sworn  
11th August, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869 1873 and 1874*

AND

Affidavit of Edward  
Kershaw Francis,  
sworn 11th August,  
1897.

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I EDWARD KERSHAW FRANCIS of No. 11 Oakley Square in the  
County of Middlesex and of Colchester in the County of Essex Solicitor make  
10 Oath and say as follows:—

1. I was partly educated at the above-named Grammar School at  
Colchester and was a day pupil there from I believe the beginning of Easter  
term 1869 to 1874.

2. During the time I was at the said School I received no formal religious  
instruction except in the Scriptures, and I was not made to learn any of the  
formularies of the Church of England.

3. It was not the custom while I was at the said School and I do not  
recollect having heard of its being the custom at any time for the schoolmaster  
or usher to repeat to the School every night the Articles of Faith and the  
20 Ten Commandments of Almighty God. I do not remember that a short form  
at the end was read for the increase of learning of the scholars and for the good  
estate of the town of Colchester. Nor was it the custom for all the scholars to  
repeat these prayers after the master openly and audibly. Nor while I was at  
the said School so far as I remember was a table of such prayers exhibited in  
the said School and I do not recollect having heard of such a table ever having  
been so exhibited.

4. I did not attend with the schoolmaster at church nor did I so attend on  
holidays. I was not examined on Mondays as to the sermon I may have heard  
on the previous day. I was not taught Mr. Nowell's Catechism nor was I  
30 examined in such catechism and I do not remember having heard of any boy  
being so taught or examined. I did not go on the first Sunday in every  
quarter or at any other time to be a partaker of the Sacrament at the Lord's  
Table in the Parish Church. I was not required by the Head Master of the said  
School to attend any special church on Sundays nor as far as I know were any  
restrictions placed upon the discretion of my parents in this matter. I was

Affidavit of Edward  
Kershaw Francis,  
sworn 11th August,  
1897.

taught the Holy Scriptures or portions thereof by reading accompanied by simple explanation and questions but was not formally taught the doctrines of the Church of England as set forth in the Articles of Religion the Catechism or the Book of Common Prayer nor was I at the age of sixteen or at any other age prepared for confirmation by the Head Master.

5. When I first went to the said School I did not hear that the rules or custom of the school in regard to the prayers had been then recently altered.

SWORN at 25 John Street Bedford  
Row in the County of Middlesex  
this 11th day of August 1897  
Before me  
J. W. A. CALKIN,  
A Commissioner to Adminiuister  
Oaths. } E. K. FRANCIS. 10

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No. 10.—Affidavit of George Alfred Blaxill, sworn  
11th August, 1897.

Affidavit of George  
Alfred Blaxill, sworn  
11th August, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869 1873 and 1874*

AND

20

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I GEORGE ALFRED BLAXILL of 109 Lenara Road Beckenham in the County of Kent Manager of the Coal Co-operative Society Limited make Oath and say as follows:—

1. I was partly educated at the above-named Grammar School and was a pupil there from about the year 1866 to the year 1872.

2. During the time I was at the said School I received no religious instruction except in the Scriptures and certainly I was never taught any <sup>30</sup> formularies of the Church of England. I believe it was only when pupils were being prepared for confirmation that they were taught any of the doctrines of the Church of England.

3. It was not the regular custom while I was at the said School and I never heard of it being the regular custom at any time for the schoolmaster or usher to repeat to the School every night the confession of sins as set forth in the beginning of the Book of Common Prayer the Articles of Faith and the Ten Commandments of Almighty God with a short form at the end for the increase of learning of the scholars one other for the Queen's Majesty and for the good estate of the town of Colchester nor was it the custom for all the scholars to repeat these prayers after the master openly and audibly. Nor while I was at the said School was a table of such prayers exhibited in the said School and

10 I never heard of such a table ever having been so exhibited. The custom was for the master to conduct morning and evening prayers consisting of the Lord's Prayer and certain collects from the Book of Common Prayer and on special occasions other prayers.

Affidavit of George  
Alfred Blaxill,  
sworn 11th August,  
1897. —

4. I was never asked to and I did not attend as a scholar with the schoolmaster at Church nor did I so attend Church on holidays. I was not examined on Mondays as to the sermon I may have heard on the previous day. I have never heard of any pupil having been so examined. I was not nor were the other boys at the said School taught Mr. Nowell's Catechism nor was I examined in such catechism. I did not go on the first Sunday in every quarter

20 or at any other time to be partaker of the Sacrament at the Lord's Table in the Parish Church. I was not required by the Head Master of the said School to attend any special Church on Sundays nor were any restrictions placed on the discretion of my parents in this matter. I was taught the Holy Scriptures by reading accompanied by simple explanation and questions but was not taught the doctrines of the Church of England as set forth in the Articles of Religion the Catechism or the Book of Common Prayer nor was I ever prepared for confirmation nor were any other pupils so prepared unless they or their parents wished it.

30 Sworn at 24 John Street Bedford Row  
in the County of Middlesex this  
11th day of August 1897  
Before me  
H. ANSON WARD  
A Commissioner to Administer  
Oaths.

GEO. ALFRED BLAXILL.

No. 11.—Affidavit of Francis Fenton, sworn  
14th August, 1897.

Affidavit of Francis  
Fenton, sworn 14th  
August, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869, 1873 and 1874*

AND

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I FRANCIS FENTON of 12 Barclay Road Leytonstone in the County of Essex Commercial Traveller make Oath and say as follows:—

1. I was partly educated at the above-named Grammar School and was a 10 day pupil there from the year 1868 to 1874.
2. During the time I was at the said School I received no religious instruction except in the Scriptures and particularly I was not taught any formularies or doctrines of the Church of England and I believe that it was only when pupils were being prepared for Confirmation that they were taught any of the formularies of the Church of England.
3. It was not the custom while I was at the said School and I never heard of it being the custom at any time for the schoolmaster or usher to repeat to the School every night the Confession of Sins set forth in the beginning of the Book of Common Prayer the Articles of Faith and the Ten Commandments of 20 Almighty God with a short form at the end for the increase of learning of the scholars one other for the Queen's Majesty and for the good estate of the town of Colchester. Nor was it the custom for all the scholars to repeat these prayers after the master open and audibly nor while I was at the said School was a table of such prayers exhibited in the said school and I never heard of such a table ever having been so exhibited.
4. I was never asked to and I did not attend with the schoolmaster at church on holidays and I never heard of any scholar being asked so to attend. The School were not examined on Mondays as to the sermon or sermons they may have heard on the previous day. I was not nor to my knowledge were 30 any of the scholars taught Mr. Nowell's catechism nor were we examined in such catechism. I did not nor to my knowledge did any of the scholars as such go on the first Sunday in every quarter or at any other time to partake of the Sacrament of the Lord's Table at the parish church. I was not required by the Head Master of the said School to attend any special church on Sundays nor were any restrictions placed on the discretion of my parents in this matter. I was taught the Holy Scriptures or portions thereof by reading accompanied by

simple explanations and questions but I was not taught the doctrines of the Church of England as set forth in the Articles of Religion the Catechism or the the Book of Common Prayer. I was not prepared for Confirmation by the Head Master and have never been confirmed. No scholar was prepared for Confirmation while I was at the said School unless his parents or he himself specially desired. The matter of Confirmation was wholly optional.

Affidavit of Francis Fenton, sworn 11th August, 1897.

10 SWORN at 4 Trafalgar Square in the County of London this 14th day of August 1897  
Before me  
G. EDWARD CARPENTER  
A Commissioner for Oaths. } FRANCIS FENTON.

No. 12.—Affidavit of Henry Charles Wanklyn, sworn  
4th September, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of* the Endowed Schools Acts 1869, 1873 and 1874

AND

Affidavit of Henry Charles Wanklyn, sworn 4th September, 1897.

*In the Matter of* a Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

20 I HENRY CHARLES WANKLYN of the Borough of Colchester in the County of Essex Solicitor Town Clerk of the said Borough of Colchester make Oath and say as follows:—

1. After the passing of the resolution of the Council of Colchester on the first day of August 1894 which resolution is referred to in a former affidavit made by me in this matter the scheme prepared by the Charity Commissioners for the administration of the above-mentioned Charity was further considered by the Council.

2. At a meeting of the Council held on the 6th day of January 1897 a resolution was passed in the following terms:—

30 “That this Council as one of the Governing Bodies of the Colchester Royal Grammar School disapproves of the recent scheme prepared by the Charity Commissioners for its future administration and being

Affidavit of Henry  
Charles Wanklyn,  
sworn 4th Septem-  
ber, 1897.

“desirous of securing an efficient and prosperous school for the town  
“requests the Commissioners to prepare a scheme which will com-  
“mend the general approval of the inhabitants and be more suitable  
“to the requirements of the Borough.”

Fourteen members of the Council voted for and eight against the resolution.

3. A copy of this resolution was on the said 6th day of January 1897 sent to the Secretary of the Charity Commission.

4. A question had previously been raised as to the Head Master of the School and at a meeting of the Council held on the sixth day of September 1893 a report was presented by the Grammar School Committee recommending <sup>10</sup> *inter alia* :—

(k) Clause 32—That the second sentence should read “He shall be a  
“member of the Church of England and a graduate of some  
“University of the United Kingdom.”

It was proposed and seconded :—

“That the suggested alteration (k) to Clause 32 be not approved and that  
“Clause 32 stand as printed in the draft scheme.”

This proposal was carried fourteen members voting for and thirteen against. The recommendation of the Committee was therefore not adopted.

SWORN at Colchester in the County of  
Essex this 4th day of September  
1897

Before me  
HENRY H. ELWES  
A Commissioner for Oaths.

20  
H. C. WANKLYN.

No. 13.—Affidavit of The Reverend Thomas Batty, sworn  
7th September, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869, 1873 and 1874*

AND

Affidavit of The Reverend Thomas Batty  
sworn 7th September, 1897.

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I THE REVEREND THOMAS BATTY of Colchester Congregational Minister make Oath and say as follows:—

10 1. I have for thirty years and upwards been resident in Colchester and Minister of the Congregational Church there and I have taken considerable interest in the above-mentioned Grammar School and the inquiries that have from time to time taken place with regard to it.

20 2. In 1864 an inquiry took place before Mr. Elton one of the Assistant Commissioners and he then reported that one or two alterations were required before the School would benefit the neighbourhood as fully as perhaps it ought. He stated that it was a good School and would become better when Greek became less important in comparison with Modern Languages and Commercial Arithmetic when certain political quarrels which he had referred to should have been pacified and when the obsolete rule that all scholars should be instructed in the Catechism Articles and Prayer Book should have been formally abolished.

30 3. In 1870 the Endowed Schools Commissioners prepared a scheme under the general provisions of the Endowed Schools Act 1869 which was sent down to the Corporation and approved unanimously. The Trustees of the School however opposed this scheme and desired the Commissioners to declare the School as one coming under the provisions of the 19th Section of the Act. After a lengthy correspondence and hearing arguments on both sides the Commissioners declared their opinion that the School was not a Denominational School coming under the provisions of Section 19.

4. The opposition of the Trustees of the School to this scheme was continued and nothing more was heard of the scheme until an inquiry was held in 1886 by Mr. William Good one of the inspectors of the Charity Com-

Affidavit of the Rev.  
Thomas Batty,  
sworn 7th Septem-  
ber, 1897.

missioners. Mr. Good decided to report to the Commissioners that at an inquiry certain gentlemen had expressed an opinion that the character of the School should be altered so as to throw it open to all denominations.

5. In 1890 the Commissioners sent to the Corporation a statement in which it was complained that the School was not satisfactory or efficient and they proposed to hold an inquiry with a view to preparing a new scheme. An inquiry was accordingly held by Mr. Eddis on the 2nd and 3rd February 1892 and a new scheme was afterwards prepared by the Charity Commissioners and in 1893 was approved by the Corporation as the Governing Body of the School. This scheme provided by Clause 52 that subject to the provisions of this scheme 10 religious instruction shall be given in the School by the Head Master at such times as he thinks best by reading and explaining the Holy Scriptures to all the boys and by teaching the Liturgy and Catechisms of the Church of England to those of the boys whose parents are in communion with that Church and to those of the other boys for whom such teaching is desired by their parents or by those standing to them in place of parents. The Trustees again opposed the scheme and wanted a provision making it necessary that the Head Master should belong to the Church of England.

6. A memorial was signed by more than 500 inhabitants of the town and sent to the Commissioners asking for a modification so as not to impose upon the 20 Head Master the duty of deciding whether the parents of boys were in communion with the Church of England or not but providing that instruction in the Liturgy and Catechism of the Church of England should be given to those boys whose parents expressed a wish in writing for it and the memorial also asked that the scheme should allow religious instruction to be given by some other teacher than the Head Master.

7. The Charity Commissioners subsequently withdrew their scheme and informed the Corporation that the School in their opinion was one falling under the provisions of the 19th Section of the Endowed Schools Act 1869 and a new scheme would be prepared for the School accordingly. This new scheme was 30 subsequently prepared and approved by the Education Department and is the one referred to in the petition in this matter.

SWORN at Colchester in the County of  
Essex this 7th day of September  
1897 before me  
HENRY GOODY,  
A Commissioner for Oaths.

THOS. BATTY.

No. 14.—Affidavit of The Reverend Arthur Francis  
Curtis, sworn 6th March, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869, 1873 and 1874*

AND

Affidavit of the  
Reverend Arthur  
Francis Curtis,  
sworn 6th March,  
1897.

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I THE REVEREND ARTHUR FRANCIS CURTIS of White Notley  
Vicarage Witham in the County of Essex Clerk in Holy Orders make Oath and  
10 say as follows:—

1. I have read through a copy of the petition of Herbert Frederick Nash and Walter Edmund Thorrington in the above matter and referring especially to paragraphs 7, 8, 9, 10, 11 and 12 thereof I say that the allegation contained in such petition that certain requirements therein named were never observed and had fallen into disuse is quite incorrect.
2. I was a pupil at such School during the years 1859 to 1867.
3. The actual religious teaching given in such School during that period was as follows: The School was opened daily with a shortened form of prayer taken from the morning prayer in the Prayer Book and was closed with evening 20 prayer and lessons of the day.
4. The daily religious instructions included a systematic teaching of the Church Catechism the Collects and other Church formularies besides preparation for Confirmation by Dr. Wright (the Head Master) himself (who always claimed it as his privilege to prepare the boys for Confirmation) special instruction was also given of the Prayer Book in preparation for the Oxford and Cambridge Local examinations. I also distinctly remember learning the Thirty-nine Articles.
5. During the time when I was at the said school all the scholars were required to learn and be instructed in the manner stated in paragraphs 3 and 30 4 of this affidavit.
6. I consider the Church teaching at such School in my time was much better and more systematic than in many other Church Schools, and I believe that the Head Master (Dr. Wright) always made a special point of such teaching.

Affidavit of the  
Reverend Arthur  
Francis Curtis,  
sworn 6th March,  
1897.

7. A copy of the Statutes always hung over the mantelpiece of the large schoolroom in full view of all the boys.

8. As I was a son of a clergyman of the Church of England and many other contemporaries with me I can most certainly say that I should not have received my education at such School if it had been considered any other than a Church of England School.

SWORN at Witham in the County of  
Essex this 6th day of March  
1897  
Before me }  
F. P. BAWTREE  
A Commissioner for Oaths }

ARTHUR FRANCIS CURTIS.

10

No. 15.—Affidavit of The Reverend Barrington Blomfield Syer, sworn 10th March, 1897.

IN THE PRIVY COUNCIL.

Affidavit of  
Reverend B. B.  
Syer, sworn 10th  
March, 1897.

*In the Matter of* The Endowed Schools Acts 1869, 1873 and 1874

AND

*In the Matter of* a Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

I THE REVEREND BARRINGTON BLOMFIELD SYER of Ked- 20 dington in the County of Suffolk Clerk in Holy Orders make Oath and say as follows:—

1. I have read through a copy of the Petition of Herbert Frederick Nash and Walter Edmund Thorrington in the above matter and referring especially to paragraphs 7, 8, 9, 10, 11 and 12 thereof I say that the allegation contained in such petition that certain requirements therein named were never observed and had fallen into disuse is quite incorrect.

2. I was a pupil at such School during the years 1856 and 1860.

3. The actual religious teaching given in such School during that period was as follows. The School was opened daily with a shortened form of prayer 30 taken from the morning prayer in the Prayer Book.

Affidavit of the  
Rev. Barrington  
Blomfield Syer,  
sworn 10th March,  
1897. —

4. The daily religious instruction included a systematic teaching of the Church Catechism the Collects and other Church formularies besides preparation for confirmation by Dr. Wright (the headmaster) himself (who always claimed it as his privilege to prepare the boys for Confirmation) special instruction was also given of the Prayer Book in preparation for the Oxford and Cambridge local examinations. I also distinctly remember learning the Thirty-nine Articles.

5. I consider the Church teaching at such School in my time was an important feature and I believe that the headmaster (Dr. Wright) always made a special point of religious instruction according to the Church of England.

10 6. During the time when I was at the said School all the scholars were required to learn and be instructed in the manner stated in paragraphs 3 and 4 of this Affidavit.

7. A copy of the Statutes always hung over the mantelpiece of the large schoolroom in full view of all the boys.

SWORN at 29 Queen Street Haverhill  
in the County of Suffolk this

10th day of March 1897

Before me

CHAS. COOPER VINCENT

A 20 Commissioner for Oaths.

BARRINGTON BLOMFIELD SYER  
B.A. Rector of Keddington Suffolk.

20

No 16.—Affidavit of James Chapman Shenstone, sworn  
26th March, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of* The Endowed Schools Acts 1869, 1873 and 1874

AND

*In the Matter of* a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester

30 I JAMES CHAPMAN SHENSTONE of Colchester in the County of  
Essex Chemist make Oath and say as follows:—

Affidavit of J. C.  
Shenstone, sworn  
26th March, 1897.

1. I have read through a copy of the petition of Herbert Frederick Nash  
and Walter Edmund Thorrington in the above matter and referring especially

Affidavit of J. C.  
Shenstone, sworn  
26th March, 1897.

to paragraphs 7, 8, 9, 10, 11 and 12 thereof I say that the allegation contained in such petition that certain requirements therein named were never observed and had fallen into disuse is quite incorrect.

2. I was a pupil at such School during the years 1867 to 1871.

3. The actual religious teaching given in such School during that period was as follows:—The School was opened daily with a shortened form of prayer taken from the morning prayer in the Prayer Book.

4. The Collects were regularly taught and the preparation for Confirmation was always made by Dr. Wright (the headmaster, himself (who always claimed it as his privilege to prepare the boys for same). 10

5. I consider the Church teaching at such School in my time was much better and more systematic than in many other Church Schools and I believe that the headmaster (Dr. Wright) always made a special point of such teaching.

6. A copy of the Statutes always hung over the mantelpiece of the large schoolroom in full view of all the boys.

SWORN at Colchester in the County of  
Essex this 26th day of March  
1897  
Before me  
CHAS. W. TOMPSON,  
A Commissioner for Oaths. }  
} J. C. SHENSTONE.

No. 17.—Affidavit of Walter Bryant Sparling, sworn  
26th March, 1897.

## IN THE PRIVY COUNCIL.

*In the Matter of* The Endowed Schools Acts 1869, 1873, and 1874.

AND

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I WALTER BRYANT SPARKLING of Colchester in the County of Essex 30  
Gentleman make Oath and say as follows—

1. I have read through a copy of the petition of Herbert Frederick Nash

and Walter Edmund Thorrington in the above matter and referring especially to paragraphs 7, 8, 9, 10, 11 and 12 thereof I say that the allegation contained in such petition that certain requirements therein were never observed and had fallen into disuse is quite incorrect.

Affidavit of Walter  
Bryant Sparling,  
sworn 26th March,  
1897. —

2. I was a pupil at such School during the years 1856 to 1861.

3. The actual religious teaching given in such School during that period was as follows:—The School was opened daily with a shortened form of prayer taken from the morning prayer in the Prayer Book and was closed with evening prayer and lessons of the day.

10 4. The daily religious instruction included a systematic teaching of the Church Catechism the Collects and other Church formularies.

5. During the time when I was at the said school all the scholars were required to learn and be instructed in the manner stated in paragraphs 3 and 4 of this Affidavit.

6. A copy of the Statutes always hung over the mantelpiece of the large schoolroom in full view of all the boys.

7. Referring to evidence given by me a few years ago at an inquiry held by the Charity Commissioners at Colchester and which evidence has been construed into a statement that there was no denominational teaching I meant 20 to imply thereby that subject to the manner of teaching set forth in this my Affidavit the Head Master made no distinctions of an objectionable character as between Church of England and nonconformist pupils.

SWORN at Colchester in the County  
of Essex this 26th day of  
March 1897  
Before me  
CHAS. W. THOMPSON  
A Commissioner for Oaths. }  
WALTER B. SPARLING.

No. 18.—Affidavit of William Henry Harwood, sworn  
30th March, 1897.

IN THE PRIVY COUNCIL.

Affidavit of W. H.  
Harwood, sworn  
30th March, 1897.

*In the Matter of the Endowed Schools Acts 1869, 1873 and 1874*

AND

*In the Matter of a Scheme for the Administration of the Foundation  
known as the Grammar School in the Borough of Colchester.*

I WILLIAM HENRY HARWOOD of 94 North Station Road Colchester in the County of Essex Entomologist make Oath and say as follows:—

1. I have read through a copy of the Petition of Herbert Frederick Nash and Walter Edmund Thorrington in the above matter and referring especially to paragraphs 7, 8, 9, 10, 11 and 12 thereof I say that the allegation contained in such Petition that certain requirements therein named were never observed and had fallen into disuse is quite incorrect.

2. I was a pupil at such school during the years 1852 to 1855 (inclusive).

3. The actual religious teaching given at such School during that period was as follows:—The School was opened daily with a short form of prayer taken from the Morning Prayer in the Prayer Book and Lessons and was closed with Evening Prayer and Lessons of the Day.

4. I particularly remember that the Wednesday and Saturday religious instruction included a systematic teaching of the Church Catechism the Collects and other Church formularies. I also distinctly remember learning the Thirty-nine Articles and repeating one or a portion of one every Monday morning.

5. During the time when I was at the said School all the scholars were required to learn and be instructed in the manner stated in paragraphs 3 and 4 of this Affidavit.

6. I consider the Church teaching at such School in my time was much better and more systematic than in many other Church Schools and I believe that the Head Master (Dr. Wright) always made a special point of such teaching.

7. A copy of the Statutes always hung over the mantelpiece of the large schoolroom in full view of all the boys.

Affidavit of William Henry Harwood,  
sworn 30th March,  
1897.

SWORN at Colchester in the County  
of Essex this 30th day of March  
1897  
Before me  
CHAS. W. TOMPSOM  
A Commissioner for Oaths. }  
W. H. HARWOOD.

No. 19.—Affidavit of Henry Charles Wanklyn, sworn  
10 28th April, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869, 1873 and 1874*

AND

Affidavit of Henry Charles Wanklyn,  
sworn 29th April,  
1897.

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester*

I HENRY CHARLES WANKLYN of Colchester in the County of Essex  
Solicitor make Oath and say as follows:—

1. I am and have for twelve years and upwards last past been Town  
Clerk of the Borough of Colchester.

20 2. As such Town Clerk as aforesaid I received on or about the 30th June  
1894 from the Secretary of the Charity Commissioners a letter of which the  
following is a copy :

Charity Commission  
29th June 1894.

E } County Essex.  
45008 } Place Colchester.  
Grammar School.

Sir

30 I am directed by the Charity Commissioners to forward for the con-  
sideration of the Town Council thirty-two Copies of the Scheme for the  
regulation of the above-named endowment in the shape in which it has been  
amended by the Charity Commissioners with a view to its submission to the  
Education Department.

Affidavit of Henry  
Charles Wanklyn,  
sworn 28th April,  
1897.

I am directed to call particular attention to Clauses 2, 32, 33, 53 and 54 and to express the hope of the Commissioners that the formal consent of the Town Council to the scheme may be communicated to me as soon as conveniently may be.

I am Sir  
Your obedient Servant  
J. E. WHITE.

H. C. WANKLYN Esq.  
Town Hall  
Colchester.

10

3. To the above letter of the Secretary of the Charity Commission I replied on the 4th August 1894 in the following words:

Town Hall  
Colchester  
4th August 1894.

E { County Essex.  
Place Colchester.  
45008 { Grammar School.

SIR,

Adverting to your letter of the 29th June I enclose print of a Report which was presented by the Free Grammar School Committee to my Council on the 1st instant. It was moved and seconded that the Report be adopted, whereupon an amendment was moved and seconded in the following words viz. :—

“ That the amended draft scheme forwarded by the Charity Commission  
“ on June 27th last for the regulation of the Colchester Grammar  
“ School be assented to by this Council subject to Clause 5 being  
“ altered in conformity with the draft scheme of July 26th 1893 so as  
“ to provide that the five representative Governors to be appointed by  
“ the Town Council shall be members of the Council and that any 30  
“ Governor so appointed by the Council shall vacate his position upon  
“ the Board immediately upon ceasing to be a member of the Town  
“ Council. Also that without making it a condition of formal assent  
“ to the scheme this Council expresses its opinion that it is desirable  
“ that like conditions should apply to the appointment of Governors  
“ by the Essex County Council and Colchester School Board  
“ respectively.”

The amendment being put was carried.

I am Sir  
Your obedient servant  
H. C. WANKLYN

40

The Secretary  
Charity Commission Whitehall S.W.

Town Clerk.

4. The paper writing marked H. C. W. now produced and shown to me is a true and correct extract from the minute book of the proceedings of the said Town Council of Colchester on the 1st August 1894 and contains a copy of the resolution which was passed by the said Town Council assenting subject as aforesaid to the said amended draft scheme of the said Charity Commission for the administration of the Grammar School in the said Borough of Colchester.

Affidavit of Henry Charles Wanklyn, sworn 28th April, 1897.

Sworn by the said Henry Charles Wanklyn  
at Colchester in the County of Essex  
this 28th day of April 1897  
10 Before me  
CHARLES H. T. MARSHALL  
A Commissioner for Oaths. } H. C. WANKLYN.

No. 20.—Exhibit H. C. W. to Affidavit of H. C. Wanklyn,  
sworn 28th April, 1897.

Borough of Colchester Wednesday 1st August 1894. } H. C. W.  
At a Quarterly Meeting of the Council of the said Borough  
duly convened and held at the Town Hall in the said  
Borough on Wednesday the 1st day of August 1894:

Exhibit H. C. W.  
to affidavit of H. C.  
Wanklyn, sworn  
28th April, 1897.

Proposed by Councillor Moore, seconded by Alderman Wicks:—

“That the Report No. 99 from the Free Grammar School Committee be adopted.”

Amendment by the Deputy Mayor, seconded by Councillor Shenstone:—

“That the amended draft scheme forwarded by the Charity Commission  
“on June 27th last for the regulation of the Colchester Grammar  
“School be assented to by this Council subject to Clause 5 being  
“altered in conformity with the draft scheme of July 26th 1893 so as  
“to provide that the five representative Governors to be appointed by  
“the Town Council shall be members of the Council and that any  
“Governor so appointed by the Council shall vacate his position upon  
“the Board immediately upon ceasing to be a member of the Town  
“Council also that without making it a condition of formal assent to  
“the scheme this Council expresses its opinion that it is desirable that  
“like conditions should apply to the appointment of Governors by the  
“Essex County Council and Colchester School Board respectively.”

For the Amendment.—The Deputy Mayor, Aldermen Elwes, Egerton Green, Sanders, and Laver. Councillors Friend, Penny, Shenstone, Egerton Green, Abblitt, Cant, Grimes, Watts, Mackenzie, Bowles, and Francis.—(16)

40 Against.—The Mayor, Aldermen Paxman, Wicks, and Butcher. Councillors Marriage, Moore, Peck, Bear, Arnold, J. F. Goodey, and Potter.—(11)

Exhibit H. C. W.  
to affidavit of H. C.  
Wanklyn, sworn  
28th April, 1897.

Amendment by Councillor Wilson Marriage, seconded by Councillor Bear:—

“ That the consideration of this subject be postponed and that the Council  
“ do not betray their trusts nor give away the rights and privileges of  
“ this Borough.”

For this Amendment.—The Mayor, Aldermen Paxman, Wicks, and Butcher. Councillors Marriage, Moore, Peck, Bear, Arnold, J. F. Goodey, and Potter.—(11)

Against.—The Deputy Mayor, Aldermen Elwes, Egerton Green, Sanders, and Laver. Councillors Friend, Penny, Shenstone, Egerton Green, Ablitt, 10 Cant, Grimes, Mackenzie, Bowles, and Francis.—(15)

Councillor Watts abstains and retires.

Lost.

The first amendment is then put as a substantive motion and carried the voting being as follows:—

For.—The Deputy Mayor, Aldermen Sanders, Elwes, Egerton Green, and Laver. Councillors Friend, Penny, Shenstone, Egerton Green, Ablitt, Cant, Grimes, Bowles, Francis, and Mackenzie.—(15)

Against.—The Mayor, Aldermen Paxman, Wicks, Butcher. Councillors Potter, Peck, Moore, Bear, Arnold, J. F. Goodey and Wilson Marriage.—(11) 20

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## IN THE PRIVY COUNCIL.

*In the Matter of* The Endowed Schools Act 1869, 1873 and 1874

AND

*In the Matter of* a Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

This is the paper writing marked H. C. W. referred to in the Affidavit of Henry Charles Wanklyn sworn before me this 28th day of April 1897.

CHARLES H. T. MARSHALL,  
A Commissioner for Oaths.

No. 21.—Affidavit of William Howard, sworn  
1st June, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of The Endowed Schools Act 1869, 1873 and 1874]*

AND

Affidavit of Wm.  
Howard, sworn  
1st June, 1897.

*In the Matter of A Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I WILLIAM HOWARD of Colchester in the County of Essex Solicitor a member of the firm of Howard, Ellison and Morton of the same place Solicitors 10 make Oath and say as follows:—

1. I am and for 17 years last past have been clerk to the Trustees of the Estates belonging to the Colchester Grammar School.

2. By an Order of the Charity Commissioners which was sealed on the 7th May 1867 on the application of Charles Gray Round who died before the Deed next hereinafter mentioned was executed John Bawtree senior, George Bawtree, Alderman Partridge and Edward Daniell the then surviving Trustees and by virtue of a Deed bearing date the 28th May 1868 John Gurdon Rebow, Philip Oxenden Papillon, John Bawtree junior, John Fitz Simmons Bishop, Stephen Brown, Felix Francis, Henry Egerton Green, Charles Henry Hawkins, 20 Charrington Nicholl, Samuel Adolphus Philbrick, Henry Wolton and Philip Havens were appointed trustees of the Estates of the said Grammar School jointly with the said John Bawtree, George Bawtree, Alderman Partridge and Edward Daniell and all such estates were conveyed to the same trustees upon and for such trusts and purposes as the same were subject to as lands, revenues, possessions of the said Grammar School therein described as the Free Grammar School subject as in the same Deed of the 28th May 1868 more particularly mentioned.

3. Of the trustees so appointed by the said Order of 7th May 1867 and Deed of 28th May 1868 the said Philip Oxenden Papillon, John Bawtree junior, 30 Charles Henry Hawkins and Charrington Nicholl were the only survivors in October 1894.

4. The said Charles Gray Round as before-mentioned died between the date of the said Order and the date of the said Deed viz. on the 1st December 1867. The said John Bawtree senior died on the 21st November 1873. The said George Bawtree died on the 9th December 1869. The said Alderman Partridge died on the 24th October 1868. The said Edward Daniell died on the 28th June 1874. The said John Gurdon Rebow died on the 12th October 1870. The said John Fitz Simmons Bishop died on the 6th May 1886. The said

Affidavit of Wm.  
Howard, sworn  
1st June, 1897.

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John Stephen Brown died on the 23rd March 1869. The said Felix Francis died on the 23rd February 1872. The said Henry Egerton Green died on the 12th September 1882. The said Samuel Adolphus Philbrick died on the 3rd September 1871. The said Henry Wolton died on the 19th August 1874 and the said Henry Havens on the 13th October 1874.

5. The said Philip Oxenden Papillon, John Bawtree Junior, Charles Henry Hawkins, and Charrington Nicholl as the then trustees of the estate of the said Grammar School assented to the amended draft scheme for the administration of the said Grammar School sent to me by the Charity Commissioners with a letter bearing date 29th June 1894 and to the further amendment 10 to Clause 5 of the said scheme mentioned in a letter sent to me by the Charity Commissioners dated 1st November 1894 I as clerk to the said trustees formally on their behalf notified to the said Commissioners in October 1894 the fact of their assent to the said amended draft scheme.

6. The said John Bawtree the younger died on the 6th day of May last.

7. The facts hereinbefore deposed to are derived by me not only from my position as clerk to the said trustees but from my personal knowledge of them as being for very many years a resident in the neighbourhood of Colchester where the said trustees either resided or were from their position well known.

Sworn at Colchester in the County of  
Essex this 1st day of June 1897  
Before me  
HENRY H. ELWES  
A Commissioner for Oaths. } WILLIAM HOWARD.

20

No. 22.—Affidavit of Daniel Robert Fearon, C.B.,  
sworn 17th June, 1897.

IN THE PRIVY COUNCIL.

Affidavit of Daniel  
Robert Fearon, C.B.,  
sworn 17th June,  
1897.

*In the Matter of* the Endowed Schools Acts 1869, 1873 and 1874

AND

30

*In the Matter of* a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester

I DANIEL ROBERT FEARON of Gwryd House Whitehall in the County of London Esquire and a Companion of the Most Honourable Order of the Bath make Oath and say as follows:—

1. I am the Secretary of the Charity Commissioners for England and Wales who are the respondents to a petition which has been presented to Her

Majesty's Privy Council in the above matters by Herbert Frederic Nash of 23 Wimpole Lane in the Borough of Colchester and Walter Edmund Thorrington of 133 Winnock Road in the same borough.

Affidavit of Daniel  
Robert Fearon, C.B.,  
sworn 17th June,  
1897. —

2. In obedience to the Charter granted by Queen Elizabeth dated 6th July 1584 the Corporation of Colchester by a deed poll dated the 1st May 1585 appropriated certain lands for the support of the School mentioned in the said Charter but in consequence as it would appear of the School not having received the full benefit of the lands so appropriated proceedings were in 1696 instituted in Chancery against the Corporation and a decree dated 31st October 10 1698 was made in the suit (in which the Attorney-General at the relation of the then Bishop of London was informant and the Corporation of Colchester the said Corporation under its then style of the Mayor and Commonalty were Defendants) and I believe that a report of the Master dated 3rd August 1703 was made and confirmed by an Order of Court dated 19th June 1706 but such report as I am informed and believe is not now to be found in the Record Office.

3. In pursuance of the said Decree and Order the Corporation by an Indenture of Release dated 17th September 1707 conveyed to Sir William Lucking, Sir Isaac Rebow, J. Thurston Hope Gifford, J. Potter, Nathaniel Lawrence and Thomas Reeve the property ascertained to belong to the said Colchester Grammar School upon special trust and confidence that they and the survivors of them should from time to time and at all times thereafter permit the Master of the Free Grammar School to have hold use occupy and possess and enjoy the same premises and the rents issues and profits thereof to have receive and take to his own use.

4. The premises subject to the trusts of the said Indenture of 17th September 1707 were by Indentures of Release respectively dated the 26th January 1727 the 24th January 1752 the 26th June 1789 and the 11th November 1833 from time to time transferred to and became vested in other 30 Trustees upon similar trusts to those declared by the said Indenture of Release of the 17th September 1707 in pursuance of the said decree of the 31st October 1698 and ultimately by an Order of the said Charity Commissioners sealed on the 7th May 1867 made upon the application of Charles Gray Round, John Bawtree, George Bawtree, Alderman Partridge, and Edward Daniell the then surviving Trustees thereof John Gurdon Rebow, Philip Oxenden Papillon, John Bawtree junior, John Fitzsimmons Bishop, Stephen Brown, Felix Francis, Henry Egerton Green, Charles Henry Hawkins, Charrington Nicholl, Samuel Adolphus Philbrick, Henry Walton and Philip Havens were appointed Trustees for the administration of the said Charity jointly with the surviving and 40 continuing Trustees. The said Order further purported to vest the lands belonging to the School in the official Trustees of Charity lands but this part of the Order was afterwards considered to be invalid the application for the Order having been confined to the appointment of new Trustees.

Affidavit of Daniel  
Robert Fearon, C.B.,  
sworn 17th June,  
1897.

5. By an Indenture dated the 28th May 1868 the said John Bawtree, George Bawtree, Alderman Partridge and Edward Daniell (the said Charles Gray Round having died in or about December 1867) conveyed to the said John Gordon Rebow, Philip Oxenden Papillon, John Bawtree junior, John Fitzsimmons, Bishop Stephen Brown, Felix Francis, Henry Egerton Green, Charles Henry Hawkins, Charrington Nicholl, Samuel Adolphus Philbrick, Henry Walton and Philip Havens to the use of the surviving and newly appointed Trustees all the property referred to in the schedule to the said Order of the 7th May 1867 upon and for such trusts and purposes as the same were subject to as lands revenues and possessions of the Free Grammar School 10 subject nevertheless as to parts thereof to a mortgage in favour of the Reverend Thomas Round for £1200 and interest.

6. In the year 1894 when the Scheme now under Appeal was made the said Philip Oxenden Papillon, John Bawtree junior, Charles Henry Hawkins and Charrington Nicholl were the only survivors of the Trustees appointed by the said Order of the 7th May 1867 and in whom the said lands were vested by the said Indenture of the 28th May 1868 and no new Trustees had been appointed. In June 1894 the Scheme now under Appeal a draft of which had been duly published on 29th July 1893 as required by the said Acts were completed in the form in which it was submitted to the Committee of Council 20 on Education (with the exception of the alteration in Clause 5 requiring the Governors appointed by the Town Council of Colchester to be members of that body which alteration was subsequently made as hereinafter mentioned) and on the 29th June 1894 letters were written and sent to the following bodies and persons *videhacet* (1) the Corporation of Colchester (2) the surviving Trustees (3) the Bishop of London (4) the Dean of St Paul's (5) the Mayor, Senior Alderman and Rural Dean of Colchester and (6) the Archdeacon of Colchester requesting their respective assents to the Scheme as so completed.

7. The said four surviving Trustees assented to the said Scheme and such assent was communicated to the Charity Commissioners by the letters from their 30 clerk Mr. Howard dated 11th October and 22nd October 1894 now shown to me and marked D.R.F. 1 and D.R.F. 2. The said Scheme was also assented to by the then Lord Bishop of London the Right Honourable and Right Reverend Frederick Temple D.D. and by the Dean of St. Paul's the Very Reverend Robert Gregory D.D. and such assents were conveyed by the paper writings now produced and shown to me respectively marked D.R.F. 3 and D.R.F. 4 being letters from the said Bishop of London and the Dean of St. Paul's respectively.

8. The said Scheme was likewise assented to by the late Right Reverend Alfred Blomfield D.D. Bishop of Colchester who was then also Archdeacon of Colchester and by the then Mayor Senior Alderman and Rural Dean of Colchester and such assents were conveyed in the paper writings now produced and shown to me respectively marked D.R.F. 5 and D.R.F. 6 being letters from the said Right Reverend Alfred Blomfield and the Reverend John William Irvine (Rural Dean of Colchester). 40

9. The Corporation of Colchester assented to the said Scheme subject only to a condition (which was complied with) that an alteration should be made in Clause 5 requiring the Governors appointed by the Town Council to be members of that body and I duly received from Henry Charles Wanklyn Town Clerk of Colchester the letter now produced to me marked D.R.F.7 conveying such conditional assent. The amended draft Scheme referred to in the last mentioned letter was duly altered in accordance with the amendment to the resolution which is set out in such letter with regard to Clause 5 thereof and the Scheme as so reamended was finally approved and submitted to the Committee of Council on Education on the faith of the assent of the Corporation of Colchester having been given thereto the condition imposed by the Town Clerk's letter having been complied with.

10. On November 1st 1894 a letter in the form shown by the paper writing now produced to me and marked D.R.F.8 was duly sent to all the persons and bodies mentioned in paragraph 6 of this Affidavit (other than the Corporation of Colchester) with reference to the alteration made in Clause 5 of the Scheme and no replies to such letter were received from any of them. The reamended Scheme was submitted to the Committee of Council on 1st February 1895 and approved by that body on 2nd February 1896 I have been informed and believe that the said Dr. Blomfield Archdeacon of Colchester died on 5th November 1894.

11. The paper writings now produced to me respectively marked D.R.F.9 D.R.F.10 and D.R.F.11 are respectively a Report of the Examination and Distribution of Prizes Midsummer 1853 at the said Colchester Grammar School. A list of the said School at Christmas 1853 and a list of the said School (with Report of Examination annexed) at Midsummer 1854. These documents were received by the Charity Commissioners from the Head Master.

12. With reference to Statute 4 of the Statutes of 1586 made for the government of the School the doctrines contained in Nowell's Catechism are those of the Church of England and that work though not officially promulgated by the said Church was approved by the Lower House of Convocation and is a work of authority (Short's History of the Church of England page 239).

13. The direction in Statute 5 of the same statutes that the boys should be "partakers of the Lord's table in that parish Church which shall be appointed to the School" also points to the instruction of the boys in the doctrines of the Church of England the rubric at the close of the Confirmation Service in the Prayer Books of 1549 1552 1559 and 1604 ordered that "none shall be admitted to the Holy Communion" until such time as he can say the "Catechism and be confirmed." This is conformable to the practice of the Primitive Church which always prescribed that Confirmation shall precede the Eucharist unless there was extraordinary occasion to the contrary e.g. the

Affidavit of Daniel  
Robert Fearon, C.B.,  
sworn 17th June,  
1897.

Affidavit of Daniel  
Robert Fearon, C.B.,  
sworn 17th June,  
1897.

— absence of a Bishop (Wheatley on Common Prayer page 386). It is to be observed that in the Prayer Book of 1549 and down to 1662 the Catechism was always deemed a part of the order of Confirmation and was even headed "Confirmation." In Keeling's *Liturgiae Britanniae* Ed. 1842 pages 274-5 are given the headings of the Catechism as follows:—

## I.

1662

A Catechism *i.e.* an instruction to be learned of every person before he be brought to be confirmed by the Bishop.

## II.

10

1604 S.E.

The order of Confirmation or Laying on of Hands upon Children baptised and able to render an account of their Faith according to the Catechism following.

## III.

1559—1552

Confirmation wherein is contained a Catechism for Children.

## IV.

1549

Confirmation wherein is contained a Catechism for Children.

20

14. The preface to the Confirmation Service on the first Prayer-Book of Edward VI. (1549) and those of 1552 and 1559 was as follows:—

"To thende that Confirmation may be ministred to the more edifying of  
" such as shall receyve it . . . . it is thought good that none  
" hereafter shall be confirmed but such as can say in their mother tong  
" the articles of the fayth the Lorde's Prayer and the ten command-  
" ments and can also answer to suche questions of this short Catechism  
" as the Bishop (or such as he shall appoynte) shall by hys discretion  
" appose them in. . . ."

And in Statute V. it would seem that the public preacher was the appointee of the Bishop to oppose the scholars in questions from the short Catechism either such as gave a satisfactory account of their faith to confirmation or possibly (having regard to the irregular and often long intervals between the holding of confirmations) to enable the Scholars to be "partakers of the Lord's Table" even before confirmation.

Affidavit of Daniel  
Robert Fearon, C.B.,  
sworn 17th June,  
1897.

15. I acquired my knowledge of the facts hereinbefore deposed to by me as such Secretary as aforesaid and from researches which I have from time to time made in that capacity.

10 Sworn at Gwydyr House Whitehall  
in the County of Middlesex this  
17th day of June 1897 before me  
CHAS. T. NICHOLLS  
A Commissioner for Oaths.

D. R. FEARON.

No. 23.—Exhibit D.R.F.1. to Affidavit of Daniel Robert  
Fearon, C.B., sworn 17th June, 1897.

D. R. F. 1.

Head Gate Court  
Colchester  
11th October 1894.

Exhibit D.R.F.1 to  
Mr. Fearon's  
Affidavit.

29  
E  
45008 { County Essex  
Place Colchester  
Grammar School

Sir

We fully thought we had given a formal assent on behalf of the trustees to this scheme but we find on looking back that we waited to hear from some one who was abroad at the time.

The amended scheme now appears to meet the views of the trustees.

30 We are Sir

Your obedient Servants

HOWARD ELLISON & MORTON.

The Secretary Charity Commission  
Whitehall S.W.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

Exhibit D.R.F.1 to This is the letter marked D.R.F.1 referred to in the Affidavit of Daniel Mr. Fearon's Robert Fearon sworn in these matters this 17th day of June 1897.  
affidavit.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

No. 24.—Exhibit D.R.F.2. to Affidavit of Daniel Robert Fearon, C.B., sworn 17th June, 1897.

Exhibit D.R.F.2 to  
Mr. Fearon's  
affidavit.

D.R.F.2.

10

Head Gate Court

Colchester

22nd October 1894

E { County Essex  
45008 { Place Colchester  
          { Grammar School

Sir

We certainly intended to convey by our letter of the 11th inst. that the assent of the trustees was given to the amended scheme.

We are Sir

20

Your obedient servants

HOWARD ELLISON & MORTON.

The Secretary Charity Commissioners  
Whitehall S.W.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

This is the letter marked D.R.F.2 referred to in the affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

30

CHAS. T. NICHOLLS

A Commissioner &c.

No. 25.—Exhibit D.R.F.3. to Affidavit of Daniel Robert  
Fearon, C.B., sworn 17th June, 1897.

D.R.F.3.

**E** County Essex  
45008 Place Colchester  
Grammar School

Exhibit D.R.F.3 to  
Mr. Fearon's  
Affidavit.

Fulham Place S.W.

4th August 1894.

Sir

10 In reply to your letter of the 29th June concerning the Colchester Grammar School I desire to say that I have made inquiry into the probable working of the scheme proposed for that School and hereby give my formal consent to it.

I am Sir

Yours faithfully

F. LONDIN.

The Secretary Charity Commission.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the  
20 Grammar School in the Borough of Colchester.

This is the paper writing marked D.R.F.3 referred to in the affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

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No. 26.—Exhibit D.R.F.4. to Affidavit of Daniel Robert  
Fearon, C.B., sworn 17th June, 1897.

D.R.F.4.

Deanery St. Paul's E.C.

Exhibit D.R.F.4 to  
Mr. Fearon's  
Affidavit.

30 30th July 1894.

Dear Sir

I consent to the amended scheme for the Colchester Grammar School that has been sent to me.

Yours truly

ROBT. GREGORY

Dean of St. Paul's.

The Secretary Charity Commission.

Exhibit D.R.F.4 to  
Mr. Fearon's  
affidavit.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

This is the paper writing marked D.R.F.4 referred to in the affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

No. 27.—Exhibit D.R.F.5. to Affidavit of Daniel Robert <sup>10</sup>  
Fearon, C.B., sworn 17th June, 1897.

Exhibit D.R.F.5 to  
Mr. Fearon's  
affidavit.

D.R.F.5.

Essex  
Colchester Grammar School  
Brentwood July 2nd 1894.

Sir

I beg to acknowledge the receipt of your communication of the 29th ult.

I have read the clauses in the draft scheme to which your letter directs my attention and I hereby give my formal consent to the scheme. <sup>20</sup>

I am

Your obedient Servant

A. COLCHESTER

Archdeacon of Colchester.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

This is the paper writing marked D.R.F. 5 referred to in the Affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Exhibit D.R.F.5 to  
Mr. Fearon's  
affidavit.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

No. 28—Exhibit D.R.F.6 to Affidavit of Daniel Robert Fearon, C.B., sworn 17th June, 1897.

10

D.R.F.6.

Exhibit D.R.F.6 to  
Mr. Fearon's  
affidavit.

E { Essex  
45008 { Colchester  
Grammar School

Villa Nova Ems  
Germany  
July 11 1894.

Sir

In reply to your letter of June 29 last which was accompanied by a copy of the Scheme as amended by the Charity Commissioners I have the honour to inform you that I am authorised to state that the Scheme has been considered by the Mayor Senior Alderman and Rural Dean of Colchester and that by a majority we give our formal consent thereto.

I am Sir

Your obedient Servant

JOHN W. IRVINE

Rural Dean of Colchester.

The Secretary Charity Commission  
Whitehall S.W.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

30 *Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

This is the paper writing marked D.R.F.6 referred to in the Affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

No. 29.—Exhibit D.R.F.7. to Affidavit of Daniel Robert Fearon, C.B., sworn 17th June, 1897.

Exhibit D.R.F.7 to  
Mr. Fearon's  
affidavit.

E  
45008 { County Essex  
Place Colchester  
Grammar School

D.R.F.7.

Town Hall Colchester  
4th August 1894.

Sir

Adverting to your letter of the 29th June I enclose print of a report 10  
which was presented by the Free Grammar School Committee to my Council  
on the 1st instant.

It was moved and seconded that the report be adopted whereupon an  
amendment was moved and seconded in the following words—viz.:

“That the amended draft scheme forwarded by the Charity Commission  
“on June 27th last for the regulation of the Colchester Grammar  
“School be assented to by this Council subject to Clause 5 being  
“altered in conformity with the draft scheme of July 26th 1893 so as  
“to provide that the five representative Governors to be appointed by  
“the Town Council shall be members of the Council and that any  
“Governor so appointed by the Council shall vacate his position upon 20  
“the Board immediately upon ceasing to be a member of the Town  
“Council also that without making it a condition of formal assent to  
“the Scheme this Council expresses its opinion that it is desirable that  
“like conditions should apply to the appointment of Governors by the  
“Essex County Council and Colchester School Board respectively.”

The amendment being put was carried.

I am Sir

Your obedient servant

H. C. WANKLYN

Town Clerk. 30

The Secretary Charity Commission  
Whitehall S.W.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the  
Grammar School in the Borough of Colchester.

This is the letter marked D.R.F. 7 referred to in the Affidavit of Daniel  
Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

CHAS. T. NICHOLLS,

A Commissioner &c. 40

No. 30.—Exhibit D.R.F.8. to Affidavit of Daniel Robert  
Fearon, C.B., sworn 17th June, 1897.

D.R.F.8.

November 1 1894.

Exhibit D.R.F.8 to  
Mr. Fearon's  
affidavit.

I am directed by the Charity Commissioners to state for the information of  
that in order to meet the views of the Town  
Council of Colchester the Commissioners have consented to insert in Clause 5  
of the proposed Scheme words providing that the representatives of the Town  
Council on the new Governing Body of the School shall be members of the  
10 Town Council and shall vacate office immediately on ceasing to be such  
members.

Unless they should receive an intimation to the contrary the Commissioners  
will presume that the consent of to the Scheme is not  
affected by the addition of such words.

I am

*Re* The Endowed Schools Acts 1860, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the  
Grammar School in the Borough of Colchester.

This is the paper writing marked D.R.F. 8 referred to in the Affidavit of  
20 Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

No. 31.—Exhibit D.R.F.9 to Affidavit of Daniel Robert  
Fearon, C.B., sworn 17th June, 1897.

Exhibit D.R.F.9 to  
Mr. Fearon's  
affidavit.

D.R.F.9.

COLCHESTER GRAMMAR SCHOOL.

Extracts from Report of the Examination and Distribution of Prizes  
Midsummer 1853.

COURSE OF INSTRUCTION.

By the new Statutes of the School made in 1844 by the Bishop of London and the Dean of St. Paul's London pursuant to the letters patent of Queen Elizabeth the course of education comprises instruction in the Latin and Greek <sup>10</sup> Authors with composition in prose and verse Ancient and Modern History and Geography Arithmetic and the Elements of Geometry. The Head Master gives occasional lectures on Natural and Experimental Philosophy.

N.B.—By Statute VI. it is provided that the scholars receive instruction two days at least in the week in the Holy Scriptures and in the doctrines of the Church of England as set forth in the Articles of Religion the Catechism and the Book of Common Prayer.

LOWER SCHOOL.

Master—Mr. J. TAYLER.

(Under the immediate Superintendence of the Head Master.)

20

The Lower School consists of a class of young boys who are carefully grounded in the Church Catechism Scripture History Reading Spelling Writing the elements of Latin French and Arithmetic the properties of natural and artificial objects and the outlines of History and Geography.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

This is the paper writing marked D.R.F.9. referred to in the Affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

20

No. 32.—Exhibit D.R.F.10 to Affidavit of Daniel Robert Fearon, C.B., sworn 17th June, 1897.

D.R.F.10.

COLCHESTER GRAMMAR SCHOOL.

Exhibit D.R.F. 10 to  
Mr. Fearon's  
affidavit.

(The list of the School Christmas 1853 contains the same passages as are extracted from the last preceding report.)

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

10 This is the paper writing marked D.R.F.10 referred to in the Affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

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No. 33.—Exhibit D.R.F.11. to Affidavit of Daniel Robert Fearon, C.B., sworn 17th June, 1897.

D.R.F.11.

COLCHESTER GRAMMAR SCHOOL.

Exhibit D.R.F.11 to  
Mr. Fearon's  
affidavit.

20 Extract from List of the School Midsummer Examination 1854.

1. Scripture Form I.—Bedford's Questions Church Catechism. Form II.—Sacred History (Old Testament) Church Catechism. Form III.—Sacred History (New Testament) Church Catechism. Form IV.—Greek Testament (St. John). Form V.—Articles. Form VI.—The Bible the Word of God Bateman's Evidences of Christianity.

*Re* The Endowed Schools Acts 1869, 1873 and 1874.

*Re* A Scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester.

This is the paper writing marked D.R.F. 11 referred to in the Affidavit of Daniel Robert Fearon sworn in these matters this 17th day of June 1897.

Before me

CHAS. T. NICHOLLS

A Commissioner &c.

No. 34.—Affidavit of The Reverend John William Irvine,  
sworn 2nd July, 1897.

IN THE PRIVY COUNCIL.

Affidavit of Rev.  
J. W. Irvine, sworn  
2nd July, 1897.

*In the Matter of the Endowed Schools Acts 1869, 1873 and 1874*

AND

*In the Matter of a Scheme for the Administration of the Foundation known  
as the Grammar School in the Borough of Colchester.*

I the Reverend JOHN WILLIAM IRVINE now Vicar of Littlemore in the County of Oxford and from May 1870 until the 12th day of March last Reector of St. Mary at the Walls Colchester in the County of Essex Clerk in 10 Holy Orders make Oath and say as follows:—

1. I am one of the Honorary Canons of the Cathedral Church of St. Albans and have since the year 1880 been Rural Dean of the Rural Deanery of Colchester until the 1st day of May in the present year.

2. By Statute 16 of the Statutes for the government of the said Grammar School which are dated on the 11th July 1844 it is provided that the Mayor of Colchester together with the Senior Alderman and the Rural Dean shall from time to time oversee the said School and cause the Statutes to be observed in every particular.

3. In the year 1894 when the Scheme now under appeal was made Henry 20 Goody Esq occupied the position of Mayor of Colchester and Horace George Egerton Green Esq was the Senior Alderman of Colchester and I was the Rural Dean of Colchester and the said Henry Goody and Horace George Egerton Green and myself as such Mayor Senior Alderman and Rural Dean of Colchester respectively by a majority assented to the amended draft scheme for the Administration of the said Grammar School which was sent to me by the Charity Commissioners with a letter bearing date the 29th June 1894 and we also by a majority assented to the further amendment of Clause 5 of the said Scheme mentioned in a letter sent to me by the Charity Commissioners dated the 1st November 1894 I as Rural Dean of Colchester formally on my own behalf 30 as well as on behalf of the said Henry Goody and Horace George Egerton Green as such Mayor and Senior Alderman of Colchester notified to the said Commissioners by letter dated the 11th July 1894 the fact that the said draft scheme had been duly considered and that by a majority the formal assent of

the said Mayor Senior Alderman and Rural Dean of Colchester was given thereto.

Sworn at Oxford in the County of Oxford by the above-named John William Irvine this 2nd day of July 1897  
 Before me  
 THOMAS M. DAVENPORT  
 A Commissioner for Oaths.

Affidavit of Rev.  
 J. W. Irvine, sworn  
 2nd July, 1897.

<sup>10</sup> No. 35.—Affidavit of the Rev. John Thomas, sworn the 2nd November, 1897.

IN THE PRIVY COUNCIL.

*In the Matter of the Endowed Schools Acts 1869, 1873, and 1874*

AND

Affidavit of Reverend  
 John Thomas, sworn  
 2nd November, 1897.

*In the Matter of a scheme for the Administration of the Foundation known as the Grammar School in the Borough of Colchester*

I THE REVEREND JOHN THOMAS of the Grammar School Colchester in the County of Essex Clerk in Holy Orders Bachelor of Arts make Oath and say as follows:—

<sup>20</sup> 1. I was appointed Head Master of the Colchester Grammar School in the month of April in the year One thousand eight hundred and ninety-two and have continued to act in that capacity to the present time and still am the Head Master.

2. There were no Boarders at the School at the time I was appointed nor had there been I am informed for some years previously thereto nor have there been any since my appointment.

SWORN by the above-named JOHN THOMAS at Colchester in the County of Essex this 2nd day of November 1897  
 Before me  
 HENRY GOODY  
 A Commissioner for Oaths.

} JNO. THOMAS.

No. 36.—Joint Affidavit of Messrs. Francis, Blaxill, and Fenton, sworn 3rd December, 1897.

IN THE PRIVY COUNCIL.

Joint Affidavit of  
Messrs. Francis,  
Blaxill, and Fenton.

*In the Matter of the Endowed Schools Acts 1869, 1873, and 1874*

AND

*In the Matter of a scheme for the administration of the Foundation known as the Grammar School in the Borough of Colchester.*

We EDWARD KERSHAW FRANCIS of No. 11 Oakley Square in the County of Middlesex and of Colchester in the County of Essex Solicitor GEORGE ALFRED BLAXILL of 109 Lennard Road Beckenham in the County of Kent Manager of the Coal Co-operative Society Limited and FRANCIS FENTON of 12 Barclay Road Leytonstone in the County of Essex Commercial Traveller make oath and say as follows:—

1. We have read copies of the affidavits filed in this matter by the Reverend Arthur Francis Curtis the Reverend Barrington Blomfield Syer, James Chapman Shenstone, Walter Bryant Sparling and William Henry Harwood. These affidavits were sworn before the dates when we respectively swore the affidavits previously made by us in this matter but we did not see them until afterwards.

2. We say each of us respectively deposing as to the time he was at the school that some of the boys at the above mentioned school did not receive the course of instruction mentioned in such affidavits and we crave leave to refer to the statements made in our said former affidavits.

3. While we respectively were at the school some of the boys were sons of parents not members of the Church of England and we never heard that these boys received the course of education referred to by the above named

deponents. Certainly we were not while at the said school taught the 39 Articles the Catechism or the Collects.

Joint Affidavit of  
Messrs. Francis,  
Blaxhill, and Upton.

SWORN by the above-named EDWARD KERSHAW FRANCIS at No. 23 Essex Street Strand in the County of London this 3rd day of December 1897.

Before me

ARTHUR C. MOORE

10 A Commissioner to administer Oaths in the Supreme Court of Judicature in England.

} E. K. FRANCIS.

SWORN by the above-named FRANCIS FENTON at No. 37 Finsbury Circus in the City of London this 11th day of December 1897

Before me

GODFREY LAWFORD

20 A Commissioner to administer Oaths in the Supreme Court of Judicature in England.

} FRANCIS FENTON.

SWORN by the above-named GEORGE ALFRED BLAXILL at 36 Finsbury Circus in the City of London this 13th day of December 1897

Before me

EDWIN SIMMONDS

A Commissioner for Oaths.

} GEO. ALFD. BLAXILL.

No. 37.—Extract from Order of Charity Commissioners,  
7th May, 1867.

CHARITY COMMISSION.

Extract from Order  
of Charity Com-  
missioners, 7th  
May, 1867.

*In the Matter of the Charity called "The Grammar School" in the Borough of Colchester in the County of Essex.*

The Board of Charity Commissioners for England and Wales having considered an application in writing made to them on the 15th day of November 1865 in the matter of the above-mentioned charity by Charles Gray Round of Birch Hall in the above-mentioned County of Essex Esquire John Bawtree of Abberton House in the same County Esquire and George Bawtree 10 Esquire and Alderman Partridge Esquire both of Colchester aforesaid and Edward Daniell of Ham Court Upton-upon-Severn in the County of Worcester Esquire being the present surviving and continuing Trustees of the said Charity for the purposes of the following Order. And it appearing to the said Board that the endowment of the said Charity consists of the particulars mentioned in the schedule hereto and that the gross annual income of the said Charity amounts to £196 10s. or thereabouts and that it is for the advantage of the said Charity that new Trustees thereof should be appointed in addition to and jointly with the surviving and continuing Trustees and that the legal estate in the real property belonging thereto should be vested in trust for the said Charity in manner 20 hereinafter mentioned and upon notice of the intention of the said Board to make the Order hereinafter contained having been given by the affixing of the same according to the direction of the said Board to the principal outer door of the Town Hall at Colchester aforesaid on the 22nd day of March 1867 and having been also advertised under the like direction in the newspaper called the *Essex and West Suffolk Gazette* on the 29th March 1867 and the 5th April 1867 being respectively more than one calendar month previously to the date hereof do hereby order that John Gurdon Rebow of Wivenhoe Park in the aforesaid County of Essex Esquire M.P. Philip Oxenden Papillon of Lexden in the same County Esquire John Bawtree junior banker John Fitz Simmons Bishop Esquire 30 Stephen Brown Esquire Felix Francis gentleman Henry Egerton Green banker Charles Henry Hawkins Esquire Charrington Nicholl brewer Samuel Adolphus Philbrick surgeon and Henry Wotton merchant all of Colchester aforesaid and Philip Havens of Wivenhoe in the aforesaid County of Essex Esquire (who have respectively signified in writing to the said Commissioners their willingness to accept and act in the trust) be appointed to be Trustees for the administration of the said Charity in addition to and jointly with the said surviving and continuing Trustees thereof.

And the said Board do further Order that the right to sue for recover and receive and to give receipts and discharges for all sums of money rents in arrear 40

and choses in action due to or recoverable for the benefit of the said Charity do vest in the said Trustees hereby appointed jointly with the said surviving and continuing Trustees their executors administrators and assigns in trust for the said Charity. . . . .

Extract from Order  
of Charity Com-  
missioners, 7th May,  
1867.

Sealed by Order of the Board this 7th day of May 1867.

(Signed) HENRY M. VANE  
Secretary.  
Charity Commission.

L. S.

I hereby certify the above to be a true and correct copy of the Order in  
the books of this office.

D. R. FEARON  
Secretary.

No. 38.—Extract from Order (Chancery), 31st October, 1698,  
in Attorney General *v.* Mayor, &c., of Colchester.

PUBLIC RECORD OFFICE COPY.

(Pursuant to Statute 1 and 2 Vict. c. 94.)

ENTRY BOOK OF DECREES AND ORDERS (CHANCERY) 1698 A. fol. 373.

(Extracts.)

20      A      Attor Genall quer Major      } Lune 31st Octobris  
et Coialt de Colehester et      }      This Cause coming this p'sent day to  
Ld Ch.      Henricu Fitzer Deftes      } be heard & debated before y<sup>e</sup> R<sup>t</sup> Honb<sup>le</sup> y<sup>e</sup>  
L<sup>d</sup> High Chaneell<sup>r</sup> in y<sup>e</sup> p'sence of Co. learned on both sides. The substance  
of y<sup>e</sup> Pltes Informacon apped to be y<sup>t</sup> Queen Elizabeth by Her Lett<sup>es</sup> Patent of  
y<sup>e</sup> 6<sup>th</sup> of July in y<sup>e</sup> 26<sup>th</sup> year of her reign reciting y<sup>t</sup> sev<sup>all</sup> questions C doubt  
had arisen about y<sup>e</sup> validity of certain Lett<sup>es</sup> Patent of King Henry y<sup>e</sup> 8<sup>th</sup> dated  
y<sup>e</sup> 12<sup>th</sup> of Nov<sup>r</sup> in y<sup>e</sup> 31<sup>st</sup> yeare of his reign whereby he had granted certaine  
messuages land C<sup>t</sup> to y<sup>e</sup> Balliffe Burgesses & Comonalty of y<sup>e</sup> Town of  
Colchester in Com. Essex whereas in truth y<sup>e</sup> s<sup>d</sup> Town was incorporated by  
the name of y<sup>e</sup> Bayliffe & Comonalty of y<sup>e</sup> s<sup>d</sup> Towne & y<sup>t</sup> the Letters Patent  
30      were surrendered into Her Court of Chancery & she bearing favour to good  
learning and desiring the profitte of y<sup>e</sup> Town gives & grant to y<sup>e</sup> Bayliff and  
Comonalty of y<sup>e</sup> s<sup>d</sup> Town and theire successors the then late sev<sup>all</sup> Chantryes  
one of y<sup>e</sup> Chappell of St. Hellen & another in the Church of y<sup>e</sup> Blessed Mary  
within y<sup>e</sup> s<sup>d</sup> Towne and all messuages land thereto belonging menconed in the  
Lett<sup>es</sup> Patent of King Henry y<sup>e</sup> 8<sup>th</sup> to be held & enjoyed by them theire  
successors & assignes for ever soe that they dispose of pte of the premises in  
erecting a Free School in the same Towne & the residue for y<sup>e</sup> comon benefit  
of y<sup>e</sup> Town for y<sup>e</sup> better payment of y<sup>e</sup> Fee farme of the said Towne. And

Extract from Order  
(Chancery) 31st  
October, 1698, in  
Attorney-General  
Mayor, &c., of  
Colchester.

Extract from Entry  
Order (Chancery),  
31st October, 1t93,  
in Attorney General  
v. Mayor, &c. of  
Colchester.

she gave them lycense to found & erect a free Gramar School within the Town & to assign p<sup>te</sup> of the p<sup>m</sup>ises being of y<sup>e</sup> clear yearly value of 20 markes or upwards for the maintenance of y<sup>e</sup> School for ever & should from time to time elect a School Ma<sup>r</sup> for y<sup>e</sup> School & for y<sup>e</sup> better governing thereof y<sup>e</sup> Bpp of London & Dean of St. Pauls London and theire successors for the time being were to make Rules and Statutes in writing to be observed by y<sup>e</sup> Schoolma<sup>r</sup> & scholars who were to be under visitacon & correction of y<sup>e</sup> Bpp & his successors for y<sup>e</sup> time being who was to visit & oversee y<sup>e</sup> same and to cause the rents and pfitte of y<sup>e</sup> p<sup>m</sup>ises assigned for maintenance of y<sup>e</sup> Scho<sup>ol</sup> & Schoolma<sup>r</sup> for the time being to be applyed accordingly according to the true intent and meaning of y<sup>e</sup> Let<sup>rs</sup> Patent. 10

WHEREUPON & upon reading of y<sup>e</sup> s<sup>d</sup> Letters Patent & y<sup>e</sup> proofes in y<sup>e</sup> Cause & hearing what was insisted on by Co. on both sides THIS COURT DOTH ORDER & DECREE y<sup>t</sup> a Com<sup>d</sup> do issue to set out & ascertain the lands menconed & intended in the s<sup>d</sup> grant made by Queen Elizabeth. And it is hereby referred to S<sup>r</sup> Richard Holford Kn<sup>t</sup> &c. to settle the Com<sup>rs</sup> to be named in y<sup>e</sup> s<sup>d</sup> Com. in case the ptves cannot agree the same and when y<sup>e</sup> s<sup>d</sup> land shall be ascertained the sd Ma<sup>r</sup> is to receive pposalls on either side of psons fit to be Trustees & to report the same to y<sup>e</sup> Court. And y<sup>e</sup> s<sup>d</sup> Ma<sup>r</sup> is also to consider of & report a method how & which way the s<sup>d</sup> land may be 20 settled for y<sup>e</sup> future so y<sup>t</sup> y<sup>e</sup> profitte thereof may be applyed according to y<sup>e</sup> uses intended in & by y<sup>e</sup> s<sup>d</sup> Let<sup>rs</sup> Patent. And y<sup>e</sup> L<sup>d</sup> Bpp of London is hereby desired to consider of y<sup>e</sup> method & way of such future settlent. And upon y<sup>e</sup> s<sup>d</sup> Ma<sup>r</sup> Report such further Order shall be made as shall be just. And it is further Ordered & Decreed that the s<sup>d</sup> Deftes the Mayor and Comonalty do aco<sup>t</sup> before the s<sup>d</sup> Ma<sup>r</sup> for y<sup>e</sup> rent of the 3 Crown Inne in Colchester & p<sup>m</sup>ises appointed for the maintenance of y<sup>e</sup> School & Schoolma<sup>r</sup> from Lady Day 16<sup>4</sup> at y<sup>e</sup> rate of 32<sup>u</sup> p. annu & for all y<sup>e</sup> pfitte & fines by them made & reced since that time. And in taking of y<sup>e</sup> s<sup>d</sup> Aco<sup>t</sup> y<sup>e</sup> s<sup>d</sup> Ma<sup>r</sup> is to allow to the s<sup>d</sup> Deftes what they have laid out for repairing the s<sup>d</sup> school & for taxes 30 & what they have froin time to time p<sup>d</sup> the Schoolma<sup>r</sup> for y<sup>e</sup> time being with all other just allowances. And it is further Ordered y<sup>t</sup> y<sup>e</sup> s<sup>d</sup> Mayor & Comonalty do in a weeke after demand pay unto the p<sup>s</sup>ent Schoolma<sup>r</sup> the sum of 30<sup>u</sup>. And if upon y<sup>e</sup> s<sup>d</sup> Aco<sup>t</sup> there shall appe to be an overplus remaining in the s<sup>d</sup> Deftes hanus the Court after the s<sup>d</sup> Report made will give direccions how the same shall be applyed & disposed of. And it is futher Ordered y<sup>t</sup> the s<sup>d</sup> Mayor and Comonalty do pay unto the s<sup>d</sup> Plte the costs of this suite to this day but y<sup>e</sup> consideracon of costs on either side in respect of y<sup>e</sup> s<sup>d</sup> Aco<sup>t</sup> is hereby reserved untill after y<sup>e</sup> s<sup>d</sup> Ma<sup>r</sup> hath made his report herein which he is hereby directed to speed. 40

C. G. 40

I Certify that the foregoing are true and authentic extracts.

L. OWEN PIKE

Assistant Keeper of the Public Records.

5 March 1892.

[32 &amp; 33 Vict., chap. 56.]

A.D. 1869.

No. 39.—An Act to Amend the Law relating to Endowed Schools and other Educational Endowments in England, and otherwise to provide for the Advancement of Education.

[2nd August 1869]

WHEREAS the Commissioners appointed by Her Majesty under letters patent dated the twenty-eighth day of December one thousand eight hundred and sixty-four, to enquire into the education given in schools not comprised within <sup>10</sup> the scope of certain letters patent of Her Majesty, bearing date respectively the thirtieth day of June one thousand eight hundred and fifty-eight and the eighteenth day of July one thousand eight hundred and sixty-one, have made their report, and thereby recommended various changes in the government, management, and studies of endowed schools, and in the application of educational endowments, with the object of promoting their greater efficiency, and of carrying into effect the main designs of the founders thereof, by putting a liberal education within the reach of children of all classes; and have further recommended other measures for the object of improving education:

And whereas such objects cannot be attained without the authority of <sup>20</sup> Parliament:

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:*

Endowed Schools Act, 1869.

Repealed by Statute Law Revision (No. 2) Act, 1893.

*Preliminary.*

1.—This Act may be cited as “The Endowed Schools Act, 1869.”

Short title.

2.—This Act shall not apply to Scotland or Ireland.

Application of Act.

3.—*This Act shall come into operation on the passing thereof which date is in this Act referred to as the commencement of this Act.*

Commencement of Act. Repealed by Statute Law Revision (No. 2) Act, 1893.

4.—In this Act, unless the context otherwise requires, the term “endowment” means every description of property, real, personal, and mixed, which is

Definition of “endowment.”

dedicated to such charitable uses as are referred to in this Act, in whomsoever such property may be vested, and in whosesoever name it may be standing, and whether such property is in possession or in reversion, or a thing in action.

Definition of  
"educational  
endowment."

5.—In this Act, unless the context otherwise requires, the term “educational endowment” means an endowment or any part of an endowment which, or the income whereof, has been made applicable or is applied for the purposes of education at school of boys and girls or either of them, or of exhibitions tenable at a school or an university or elsewhere, whether the same has been made so applicable by the original instrument of foundation or by any subsequent Act of Parliament, letters patent, decree, scheme, order, instrument, or other authority, <sup>10</sup> and whether it has been made applicable or is applied in the shape—of payment to the governing body of any school or any member thereof, or to any teacher or officer of any school or to any person bound to teach, or to scholars in any school, or their parents, or—of buildings, houses, or school apparatus for any school, or otherwise howsoever.

Definition of  
"endowed school."

6.—In this Act, unless the context otherwise requires, the term “endowed school” means a school which is (or if it were not in abeyance would be) wholly or partly maintained by means of any endowment: Provided that a school belonging to any person or body corporate shall not by reason only that exhibitions are attached to such school be deemed to be an endowed school. <sup>20</sup>

Interpretation  
of terms.

7.—In this Act, unless the context otherwise requires,—

The term “exhibition” means any exhibition, scholarship, or other like emolument; and the term “exhibitioners” and other terms referring to exhibitions are to be construed accordingly:

The term “governing body” means any body corporate, persons or person who have the right of holding, or any power of government or management over any endowment or, other than as master, over any endowed school, or have any power, other than as master, of appointing officers, teachers, exhibitioners or others, either in any endowed school, or with emoluments out of any endowment: <sup>30</sup>

The term “Committee of Council on Education” means the Lords of the Committee of Her Majesty’s Privy Council on Education.

Nothing in this Act  
except as expressly  
provided, to apply  
to certain schools  
herein named.

8.—Nothing in this Act, save as in this Act expressly provided, shall apply—

(1) To any school mentioned in section three of the Public Schools Act, 1886, or to the endowment thereof:

(2) To any school which, on the first of January one thousand eight hundred and sixty-nine, was maintained wholly or partly out of annual voluntary subscriptions, and had no endowment except school buildings or teachers’ residences, or playground or gardens attached to such buildings or residences: <sup>40</sup>

10 (3) To any school which, at the commencement of this Act, is in receipt of an annual grant out of any sum of money appropriated by Parliament to the civil service, intituled "For Public Education in "Great Britain," or to the endowment thereof; unless such school is a grammar school, as defined by the Act of the session of the third and fourth years of the reign of her present Majesty, chapter seventy-seven, or a school a department of which only is in receipt of such grant :

(4) To any school (unless it is otherwise subject to this Act) which is maintained out of any endowment the income of which may, in the discretion of the governing body thereof, be wholly applied to other than educational purposes, or to such endowment :

(5) To any school (unless it is otherwise subject to this Act) which receives assistance out of any endowment the income of which may, in the discretion of the governing body of such endowment, be applied to some other school :

20 (6) To any endowment applicable and applied solely for promoting the education of the ministers of any church or religious denomination, or for teaching any particular profession, or to any school (unless it is otherwise subject to this Act) which receives assistance out of such endowment :

(7) To any school which, during the six months before the first of January one thousand eight hundred and sixty-nine, was used solely for the education of choristers, or to the endowment of any such school if applicable solely for such education.

*Reorganisation of Endowed Schools.*

9.—The Commissioners (appointed as in this Act mentioned), by schemes made during the period, in the manner and subject to the provisions in this Act mentioned, shall have power, in such manner as may render any educational endowment most conducive to the advancement of the education of boys and girls, or either of them, to alter, and add to any existing, and to make new trusts, directions, and provisions in lieu of any existing trusts, directions, and provisions which affect such endowment, and the education promoted thereby, including the consolidation of two or more such endowments, or the division of one endowment into two or more endowments.

Schemes for application of educational endowments.

10.—The Commissioners by any scheme relating to an educational endowment made during the period, in the manner and subject to the provisions in this Act mentioned, shall have power to alter the constitution, rights, and powers of any governing body of an educational endowment, and to incorporate any such governing body, and to establish a new governing body, corporate or unincorporate, with such powers as they think fit, and to remove a governing body, and in the case of any corporation (whether a governing body or not)

Schemes as to governing bodies.

incorporated solely for the purpose of any endowment dealt with by such scheme, to dissolve such corporation.

Educational interests of persons entitled to privileges.

Amended 36 and 37 Viet. c. 87 s. 5.

Schemes to extend benefit to girls.

Saving of interest of foundationer, master, governing body, &c.

11.—It shall be the duty of the Commissioners in every scheme which abolishes or modifies any privileges or educational advantages to which a particular class of persons are entitled, and that whether as inhabitants of a particular area or otherwise, to have due regard to the educational interests of such class of persons.

12.—In framing schemes under this Act, provision shall be made so far as conveniently may be for extending to girls the benefits of endowments.

13.—It shall be the duty of the Commissioners to provide in any scheme 10 for saving or making due compensation for the following vested interests; namely,

- (1) The interests of any boy or girl who was at the time of the passing of this Act on the foundation of any endowed school:
- (2) The tenure by any person of any exhibition dealt with by any such scheme which was held by him at the time of the passing of this Act:
- (3) Such interest as any teacher or officer in any endowed school appointed to his office before the passing of the Endowed Schools Act, 1868, may have:
- (4) Such interest as any person may have in any pension or compensation 20 allowance to which he was entitled at the passing of the Endowed Schools Act, 1868:
- (5) Such interest as any member of the governing body of any educational endowment appointed to his office before the passing of the Endowed Schools Act, 1868, may have in any emolument payable to him as such, or in any right of patronage which has a marketable value, and is capable of being sold by him:

It shall also be the duty of the Commissioners in any scheme relating to any endowed school to have regard to the rights of patronage which may be at the passing of this Act exercised by any member of the governing body of such 30 school in consequence of any gift or donation made by him.

Not to authorize schemes for interfering with modern endowments, cathedral schools, &c.

14.—Nothing in this Act shall authorize the making of any scheme interfering—

- (1) With any endowment, or part of any endowment (as the case may be) originally given to charitable uses, or to such uses as are referred to in this Act, less than fifty years before the commencement of this Act, unless the governing body of such endowment assent to the scheme:

10

- (2) With the constitution of the governing body of any school wholly or partly maintained out of the endowment of any cathedral or collegiate church, or forming part of the foundation of any cathedral or collegiate church, unless the dean and chapter of such church assent to the scheme :
- (3) With the constitution of the governing body of any school, which governing body is subject to the jurisdiction of the governing body of the people called Quakers, or of the congregation of United Brethren called Moravians, unless the governing body of such school assent to the scheme :
- (4) With the constitution of the governing body of any school or with any exhibition (other than one restricted to any schools, or school or district), forming part of the foundation of any college in Oxford or Cambridge, unless the college assent to the scheme.

15.—In every scheme (except as hereinafter mentioned) relating to any endowed school or educational endowment, the Commissioners shall provide that the parent or guardian of, or person liable to maintain or having the actual custody of, any scholar attending such school as a day school, may claim, by notice in writing addressed to the principal teacher of such school, the exemption 20 of such scholar from attending prayer or religious worship, or from any lesson or series of lessons on a religious subject, and that such scholar shall be exempted accordingly, and that a scholar shall not by reason of any exemption from attending prayer or religious worship or from any lesson or series of lessons on a religious subject, be deprived of any advantage or emolument in such endowed school or out of any such endowment to which he would otherwise have been entitled, except such as may by the scheme be expressly made dependent on the scholar learning such lessons.

As to religious  
education in  
day schools.

They shall further provide that if any teacher, in the course of other lessons at which any such scholar is in accordance with the ordinary rules of 30 such school present, teaches systematically and persistently any particular religious doctrine from the teaching of which any exemption has been claimed by such a notice as is in this section before provided, the governing body shall, on complaint made in writing to them by the parent, guardian, or person having the actual custody of such scholar, hear the complainant, and inquire into the circumstances, and, if the complaint is judged to be reasonable, make all proper provisions for remedying the matter complained of.

16.—In every scheme (except as hereinafter mentioned) relating to an endowed school, the Commissioners shall provide that if the parent or guardian of, or person liable to maintain or having the actual custody of, any scholar 40 who is about to attend such school, and who but for this section could only be admitted as a boarder, desires the exemption of such scholar from attending prayer or religious worship, or from any lesson or series of lessons on a religious subject, but the persons in charge of the boarding houses of such school are not willing to allow such exemption, then it shall be the duty of the governing

As to religious  
education in  
boarding schools.

body of such school to make proper provisions for enabling the scholar to attend the school, and have such exemption as a day scholar without being deprived of any advantage or emolument to which he would otherwise have been entitled, except such as made by the scheme, be expressly made dependent on the scholar learning such lessons. And a like provision shall be made for a complaint by such parent, guardian, or person as in the case of a day school.

Governing body not to be disqualified on ground of religious opinions.

Amended, 36 and 37 Vict. c. 87 s. 6.

Masters not to be required to be in holy orders.

Schools excepted from provisions as to religion.

Extended, 36 and 37 Vict. c. 87 s. 7.

17.—In every scheme (except as hereinafter mentioned) relating to any educational endowment the Commissioners shall provide that the religious opinions of any person, or his attendance or non-attendance at any particular form of religious worship, shall not in any way affect his qualification for being one of the governing body of such endowment. <sup>10</sup>

18.—In every scheme (except as hereinafter mentioned) relating to an endowed school the Commissioners shall provide that a person shall not be disqualified for being a master in such school by reason only of his not being or not intending to be in holy orders.

19.—A scheme relating to—

- (1) Any school which is maintained out of the endowment of any cathedral or collegiate church, or forms part of the foundation of any cathedral or collegiate church; or
- (2) Any educational endowment, the scholars educated by which are, in the opinion of the Commissioners (subject to appeal to Her Majesty in Council as mentioned in this Act), required by the express terms of the original instrument of foundation or of the statutes or regulations made by the founder or under his authority, in his lifetime or within fifty years after his death (which terms have been observed down to the commencement of this Act), to learn or to be instructed according to the doctrines or formularies of any particular church, sect, or denomination, <sup>20</sup>

is excepted from the foregoing provisions respecting religious instruction, and attendance at religious worship (other than the provisions for the exemption of day scholars from attending prayer or religious worship, or lessons on a religious subject, when such exemption has been claimed on their behalf), and respecting the qualification of the governing body and masters (unless the governing body, constituted as it would have been if no scheme under this Act had been made, assents to such scheme). <sup>30</sup>

And a scheme relating to any such school or endowment shall not, without the consent of the governing body thereof, make any provision respecting the religious instruction or attendance at religious worship of the scholars (except for securing such exemption as aforesaid, or respecting the religious opinions of the governing body or masters. <sup>40</sup>

20.—In every scheme the Commissioners may, if they think fit, provide for <sup>Transfer of jurisdiction of visitors.</sup> the transfer to Her Majesty of all rights and powers reserved to, belonging to, claimed by, or capable of being exercised by any person, persons, or body corporate as visitor of the endowed school or educational endowment to which the scheme relates, except in the case of cathedral schools.

They shall also provide that such rights and powers as aforesaid, if vested in Her Majesty at the commencement of this Act, or if transferred to Her Majesty by the scheme, shall be exercised only through and by the Charity Commissioners for England and Wales.

10 21.—In every scheme the Commissioners shall provide for the abolition of <sup>Abolition of jurisdiction of ordinary masters.</sup> all jurisdiction of the ordinary relating to the licensing of masters in any endowed school, or of any jurisdiction arising from such licensing.

22.—In every scheme the Commissioners shall provide for the dismissal at <sup>Tenure of office of teachers.</sup> pleasure of every teacher and officer in the endowed school to which the scheme relates, including the principal teacher, with or without a power of appeal in such cases and under such circumstances as to the Commissioners may seem expedient.

23.—In any scheme the Commissioners may insert all powers and provisions <sup>General provisions.</sup> that may be thought expedient for carrying its objects into effect.

20 24.—Where part of an endowment is an educational endowment within the meaning of this Act, and part of it is applicable or applied to other charitable uses, the scheme shall be in conformity with the following provisions (except so far as the governing body of such endowment assent to the scheme departing therefrom); that is to say:

- (1) The part of the endowment or annual income derived therefrom which is applicable to such other charitable uses shall not be diverted by the scheme from such uses;
- (2) The part of the endowment or annual income so applicable to such other charitable uses shall be deemed to be the proportion which, in the opinion of the Commissioners, subject to appeal to Her Majesty in Council, is the average proportion which has during the three years before the passing of this Act been appropriated as regards capital or applied as regards income to such uses, or (if that proportion differs from the proportion which ought in accordance with the express directions of the instrument of foundation or the statutes or regulations during the said three years governing such endowment to have been so appropriated or applied) which ought to have been so appropriated or applied;
- (3) If the proportion applicable to other charitable uses exceeds one half of the whole of the endowment, the governing body of such endowment existing at the date of the scheme shall, so far as regards its non-educational purposes, remain unaltered by the scheme;

- (4) Where the governing body remains so unaltered, that body shall pay or apply for educational purposes such proportion as under the former provisions of this section is applicable to those purposes, or such less sum as may be fixed by the Commissioners, subject to appeal to Her Majesty in Council;
- (5) Where during the said three years any portion of the endowment as existing at the commencement of such three years, or the annual income of such portion, has been accumulated and not applied to any purpose, the Charity Commissioners for England and Wales shall determine whether such portion or income is to be considered, for the purposes of this section, as having been appropriated or applied for educational purposes, or for other charitable uses;
- (6) Where by reason of the Act of Parliament, letters patent, decree, scheme, order, or other instrument during the said three years governing an endowment not having during the said three years been duly carried into effect, or being merely provisional, the preceding provisions of this section are not in the opinion of the Charity Commissioners for England and Wales applicable to such endowment, the Charity Commissioners shall determine what proportions shall be considered as applicable to educational purposes, and such other charitable uses respectively.

Subject to the foregoing provisions of this section, the Commissioners shall have power by any scheme to deal with such endowment, and with the governing body thereof, in the same manner in all respects as if the whole of it were an educational endowment.

New endowments  
mixed with old  
buildings, &c.

Amended, 36 and 37  
Vict. c. 87, s. 10.

Apportionment  
of old and new  
endowments.

25.—Where an endowment or part of an endowment originally given to charitable uses less than fifty years before the commencement of this Act has, by reason of having been spent on school buildings or teachers' residences, or playgrounds or gardens attached to such buildings or residences, become so mixed with an old endowment given more than fifty years before the passing of this Act, that in the opinion of the Commissioners (subject to appeal to Her Majesty in Council) it cannot conveniently be separated from such old endowment, then the whole endowment shall for the purposes of this Act be deemed to be an endowment originally given to charitable uses more than fifty years before the commencement of this Act.

26.—Where part of an endowment has been originally given to charitable uses more than fifty years, and another part less than fifty years before the commencement of this Act, and the two have not become mixed, as mentioned in this Act, so that they cannot conveniently be separated, and the governing body do not assent to the scheme dealing with the modern part of the endowment, the scheme relating to the whole part of the endowment shall, subject to appeal to Her Majesty in Council, apportion such parts, and may direct either that the endowment shall be divided and appropriated accordingly in manner provided in the scheme, or that the whole endowment shall be vested

in the governing body of one of such parts; and that the portion which is to be applied by the governing body of the other part shall be a debt due to them from the other governing body, and shall be a first charge on the endowment after payment of any charges existing thereon at the date of the scheme.

27.—Where an educational endowment at the commencement of this Act forms or has formed part of the endowment of any cathedral or collegiate church, the Commissioners shall inquire into the adequacy of such educational endowment, and may submit to the Ecclesiastical Commissioners for England proposals for meeting out of the common fund of the Ecclesiastical Commissioners the claims of any school receiving assistance out of the endowment of any such church to have an increased provision made for it in respect of any estates of such church which may have been transferred to the Ecclesiastical Commissioners. And the Ecclesiastical Commissioners on assenting to any such proposal or any modification of it may make such provision out of their common fund by such means and in such manner as they think best, and a scheme under this Act may with their consent be made for carrying such proposal into effect.

Claims of cathedral schools against Ecclesiastical Commissioners.

28.—In any scheme the Commissioners may provide for the alteration from time to time of such portions of the scheme as they think expedient by the Charity Commissioners for England and Wales in the exercise of their ordinary jurisdiction, provided such alteration shall not be contrary to anything contained in this Act.

As to alteration of schemes.

See 36 & 37 Vict. c. 87, s. 10.

29.—For the purposes of this Act endowments attached to any school for the payment of apprenticeship fees or for the advancement in life or for the maintenance or clothing or otherwise for the benefit of children educated at such school shall be deemed to be educational endowments.

Apprenticeship fees, &c.

Provided that nothing shall be construed to prevent a scheme relating to any such endowment from providing, if the governing body so desire, for the continued application of such endowment to the same purposes.

30.—In the case of any endowment which is not an educational endowment as defined in this Act, but the income of which is applicable wholly or partially to any one or more of the following purposes; namely,—

Application to education of non-educational charities.

- Doles in money or kind;
- Marriage portions;
- Redemption of prisoners and captives;
- Relief of poor prisoners for debt;
- Loans;
- Apprenticeship fees;
- Advancement in life, or
- Any purposes which have failed altogether or have become insignificant in comparison with the magnitude of the endowment, if originally given to charitable uses in or before the year of our Lord one thousand eight hundred;

it shall be lawful for the Commissioners, with the consent of the governing body, to declare, by a scheme under this Act, that it is desirable to apply for the advancement of education the whole or any part of such endowment, and thereupon the same shall for the purposes of this Act be deemed to be an educational endowment, and may be dealt with by the same scheme accordingly: Provided that—

- (1) In any scheme relating to such endowment due regard shall be had to the educational interests of persons of the same class in life or resident within the same particular area as that of the persons who at the commencement of this Act are benefited thereby: 10
- (2) No open space at the commencement of this Act enjoyed or frequented by the public shall be enclosed in any other manner than it might have been if this Act had not passed.

#### *Procedure for making Schemes.*

Appointment of  
Commissioners for  
purposes of this Act.

31.—*For the purposes of this Act it shall be lawful for Her Majesty from time to time to appoint Commissioners (in this Act referred to as "the Commissioners") and to appoint a secretary to such Commissioners, and to remove any Commissioners or secretary so appointed and appoint others, but the number of such Commissioners shall not exceed three at any one time.*

Repealed, 37 & 38  
Vict. c. 87. s. 7.

*The Commissioners of Her Majesty's Treasury may assign to the Commissioners and secretary such salaries, and allow them to employ such assistant commissioners, officers, and clerks, as the Commissioners of Her Majesty's Treasury may think proper.*

*The Commissioners, secretary, and other persons so appointed and employed shall not hold office after the expiration of the time limited for the exercise of their powers.*

32.—The Commissioners, after such examination or public inquiry as they think necessary, may prepare drafts of schemes for the purposes of this Act, subject to the following conditions—namely:

Preparation of  
draft scheme.

(1) Where the gross average annual income of an endowment or of the aggregate educational endowments of an endowed school during the three years next before the first of January one thousand eight hundred and sixty-nine,— 30

(a) exceeded ten thousand pounds a year, then before the expiration of twelve months, and where it—

(b) exceeded one thousand pounds a year, then before the expiration of six months,

after the commencement of this Act, any governing body of any such endowment may, if they give to the Commissioners such notice as in this section mentioned, prepare and submit to the Commissioners in writing a scheme relating to such endowment, and the Commissioners

shall consider such scheme before they themselves prepare any draft of a scheme relating to the same endowment; and any scheme so prepared by the governing body, and submitted to the Commissioners, shall, if approved by them, be adopted and proceeded with by them in the same manner as if it were a draft scheme originally prepared by themselves:

10 (2) The notice to be given by a governing body to the Commissioners is a notice of their intention to prepare and submit to the Commissioners a draft of a scheme, which notice shall be in writing, and shall be given to the Commissioners within two months after the commencement of this Act:

(5) The certificate of the Charity Commissioners for England and Wales shall be conclusive evidence for the purposes of this section of the income of an endowment or aggregate endowments of an endowed school.

33.—When the Commissioners have prepared the draft of a scheme they shall cause it to be printed, and printed copies of it to be sent to the governing body or governing bodies of the endowment or endowments to which it relates, and to the principal teacher of any endowed school to which it relates, and 20 shall also cause the draft, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all persons interested.

As to printing and publication of draft schemes.

34.—During *three\** months after the first publication of the draft of a scheme the Commissioners shall receive any objections or suggestions made to them in writing respecting such scheme, and shall receive any alternative scheme submitted to them by the governing body of any endowment to which the scheme of the Commissioners relates.

Objections and suggestions respecting scheme and alternative scheme.

35.—At any time after the expiration of the *three\** months the Commissioners, or any one of them, if they think fit, may hold an inquiry or they may refer 30 the draft of the scheme and the alternative scheme, if any, to an Assistant Commissioner, and direct him to hold an inquiry concerning the subject matter of such scheme or schemes.

Power to make inquiry into schemes.

36.—As soon as may be after the expiration of the said *three\** months, or 40 the holding of such inquiry by the Commissioners or one of them, or the receipt by the Commissioners of the report of the Assistant Commissioner, on the inquiry held by him (as the case may be), the Commissioners shall proceed to consider any objections or suggestions made to them in writing respecting the draft scheme, and to consider the alternative scheme (if any), and the report (if any), and thereupon they shall, if they think fit, frame a scheme in such form as they think expedient, and submit it for the approval of the Committee of Council on Education: Provided that, where a scheme has been prepared and

As to framing of schemes.

\* "Three" altered to "two," 36 & 37 Vict. c. 87 s. 12.

submitted in pursuance of this Act to the Commissioners before the Commissioners have prepared the draft of a scheme, the Commissioners shall, if requested by the governing body which submitted it, submit such scheme with their own to the Committee of Council on Education.

Approval of Committee of Council on Education to schemes.

Repealed, 36 & 37 Vict. c. 87, s. 20.

Amended, 36 & 37 Vict. c. 87, s. 13.

Consent of colleges or hall.

Appeal to Queen in Council.

Amended, 36 & 37 Vict. c. 87, s. 14.

37.—*The Committee of Council on Education shall consider all schemes so submitted to them, and may, if they think fit, approve any scheme so submitted, and shall cause the scheme so approved to be published and circulated in such manner as they think sufficient for giving information to all persons interested.*

If the Committee do not approve a scheme submitted to them, the Commissioners may frame and submit another scheme in the same manner <sup>10</sup> as if no scheme had been previously framed and submitted; provided that where the Committee of Council on Education have not approved any scheme relating to an endowment, the governing body of which may under this Act prepare and submit a draft of a scheme before the Commissioners prepare a draft of a scheme, such governing body may, within three months after notice of such non-approval (if within one month thereafter they give written notice of their intention to the Commissioners), submit to the Commissioners an amended scheme; and the Commissioners shall consider the same before they frame and submit another scheme relating to the same endowment, and such amended scheme of the governing body, if approved by the Commissioners, <sup>20</sup> shall be adopted and proceeded with by them as if it were a scheme originally framed by themselves.

38.—Where a scheme abolishes any restriction which makes any exhibition tenable only at a particular college or hall in any university, and the exhibition is payable out of property held by such college, or by the university in trust for such college or hall (otherwise than as governing body of a school, or as a bare trustee), the scheme shall not be approved if not less than two-thirds of the governing body of such college or hall dissent therefrom in writing; but in every such case the Committee of Council shall make a special report to Parliament setting out the proposed scheme, and stating the dissent, and the <sup>30</sup> reasons, if any, assigned for it.

39.—If the governing body of any endowment to which a scheme relates, or any person or body corporate directly affected by such scheme, feels aggrieved by the scheme on the ground—

- (1) Of any decision of the Commissioners in a matter in which an appeal to Her Majesty in Council is given by this Act; or
- (2) Of the scheme not saving or making due compensation for his or their vested interest as required by this Act;
- (3) Of the scheme being one which is not within the scope of, or made in conformity with, this Act; or
- (4) (If the governing body are the petitioners), of a scheme not having due regard to any educational interests, to which regard is required <sup>40</sup>

by this Act to be had, on the abolition or modification of any privileges or educational advantages to which a particular class of persons are entitled;

such governing body, person, or body corporate may, within two months after the publication of the scheme when approved, petition Her Majesty in Council stating the grounds of the petition, and praying Her Majesty to withhold her approval from the whole or any part of the scheme.

*Her Majesty, by Order in Council, may refer any such petition for the consideration and advice of five members at the least of Her Privy Council, of whom two (not including the Lord President) shall be members of the Judicial Committee, and such five members may, if they think fit, admit counsel to be heard in support of and against the petition, and shall have the same power with respect to the costs of all parties to the petition as the Court of Chancery would have if the petition were a proceeding in that court by way either of petition or information for obtaining a scheme.*

Repealed, 33 & 37  
Vict. c. 57, s. 29.

Any petition not proceeded with in accordance with the regulations made with respect to petitions presented to the Judicial Committee of the Privy Council shall be deemed to be withdrawn.

It shall be lawful for Her Majesty by Order in Council to direct that the scheme petitioned against be laid before Parliament, or to remit it to the Commissioners with such declaration as the nature of the case may require.

40.—Where a scheme is remitted with a declaration the Commissioners may either proceed to prepare another scheme in the matter in the same manner as if no scheme had been previously prepared, or may submit for the approval of the Committee of Council on Education such amendments in the Scheme as will bring it into conformity with the declaration.

Proceedings where  
scheme is remitted.

The Committee may, if they think fit, approve the scheme with such amendments, and shall publish and circulate the same in the same manner and subject to the same right of petition to Her Majesty in Council as is before directed in the case of the approval of a scheme, and so on from time to time as often as occasion may require.

41.—*After the time has expired for a petition to Her Majesty in Council against any scheme, or after Her Majesty in Council has directed a scheme to be laid before Parliament, the scheme shall be forthwith laid before both Houses of Parliament, if Parliament be sitting, or, if not, then within three weeks after the beginning of the next ensuing session of Parliament, and after such scheme has lain for forty days before Parliament, then unless within such forty days an address has been presented by one or other of the said Houses praying Her Majesty to withhold her consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme or any part thereof to which such address does not relate.*

Schemes, &c., to  
be laid before  
Parliament.  
Repealed, 33 & 37  
Vict. c. 57, s. 29.

Exception as to  
schemes for en-  
dowments  
under 100*l.*

42.—Where a scheme relates to an endowment which during the three years preceding the commencement of this Act has had an average annual gross income of not more than one hundred pounds, no petition shall be presented to Her Majesty in Council with reference to such scheme, so far as it relates to such an endowment.

The certificate of the Charity Commissioners of England and Wales shall be conclusive evidence for the purposes of this section of the income of an endowment.

New scheme on  
non-approval.

43.—If any scheme or any part thereof is not approved by Her Majesty, then the Commissioners may thereupon proceed to prepare another scheme in 10 the matter, and so on from time to time as often as occasion may require.

Amendment of  
schemes.

44.—Schemes may be from time to time framed and approved for amending any scheme approved under this Act, and all the provisions of this Act relative to an original scheme shall apply also to an amending scheme, *mutatis mutandis*.

Scheme to take  
effect.

45.—A scheme shall not of itself have any operation, but the same, when and as approved by Her Majesty in Council, shall from the date specified in the scheme, or, if no date is specified, from the date of the Order in Council, have full operation and effect in the same manner as if it had been enacted in this Act.

Effect of scheme.

46.—Upon a scheme coming into operation, every Act of Parliament, letters patent, statute, deed, instrument, trust, or direction relating to the subject matter of the scheme, and expressed by such scheme to be repealed and abrogated, shall by virtue of the scheme and of this Act, be repealed and abrogated from the date in that behalf specified, or, if no date is specified, from the date of the scheme coming into operation, and all property purporting to be transferred by such scheme shall, without any other conveyance or act in the law (so far as may be), vest in the transferees, and so far as it cannot be so vested shall be held in trust for the transferees.

Evidence of scheme.

47.—The Order in Council approving a scheme shall be conclusive evidence 30 that such scheme was within the scope of and made in conformity with this Act, and the validity of such scheme and order shall not be questioned in any legal proceedings whatever.

Quorum of Com-  
missioners.  
Repealed, 37 & 38  
Vict. c. 87, s. 7.

48.—*A scheme of the Commissioners shall not be submitted to the Committee of Council on Education unless two at least of the Commissioners have signified in writing their approval of such scheme, but in all other respects one Commissioner may act under this Act.*

Power of Com-  
missioners, &c.,  
as to procuring  
evidence.  
18 & 19 Vict.  
c. 124, ss. 6-9.

49.—Section eleven of the Charitable Trusts Act, 1853 (which relates to the production of documents by public officers), and sections six, seven, eight, and nine of the "Charitable Trust Act, 1855" (relating to evidence, and the 40

attendance and examination of witnesses), shall extend to the Commissioners and Assistant Commissioners under this Act, as if they were the Commissioners and inspectors mentioned in those sections.

50.—Where any Commissioner or Assistant Commissioner holds a local inquiry for the purpose of a scheme under this Act, whether before or after the first publication of a draft scheme, he shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the place where the endowment is situate or administered, and thereat take and receive any evidence and information offered, and hear and inquire into any objections or suggestions made or to be made during the sitting or sittings respecting the scheme or the endowment or school, with power from time to time to adjourn any sitting.

Notice shall be published, in such manner as the Commissioners direct, of every such sitting (except an adjourned sitting), fourteen days at least before the holding thereof.

51.—The Assistant Commissioner who holds a local inquiry shall make a report in writing to the Commissioners setting forth the result of the inquiry, and where a draft scheme, with or without an alternative scheme, has been referred to him whether in his opinion such draft or alternative scheme, as the case may be, should be approved with or without alteration, and if with any, then with what alteration, and his reasons for the same, and the objections and suggestions, if any, made on the inquiry, and his opinion thereon.

Inquiry by public  
sittings by Com-  
missioners, &c.

As to report of  
Assistant  
Commissioners.

### *Miscellaneous.*

52.—During the continuance of the power of making schemes under this Act the Charity Commissioners for England and Wales, or any Court or Judge, shall not, with respect to any educational endowment which can be dealt with by a scheme under this Act, make any scheme or appoint any new trustees without the consent of the Committee of Council on Education.

Restriction of  
powers of Charity  
Commissioners,  
Court, &c.  
Repealed 37 & 38  
Vict. c. 87, s. 7.

During the same period the Charity Commissioners shall have the same power of acting upon application made to them by the Commissioners under this Act with respect to any educational endowment as they would have if such application had been made by the governing body of such endowment; and the governing body shall conform to any order made or directions given by the Charity Commissioners upon such application.

53.—The chapel of an endowed school subject to this Act, which either has been before or after the commencement of this Act consecrated according to law, or is authorised for the time being by the bishop of the diocese in which the chapel is situate, by writing under his hand, to be used as a chapel for such school, shall be deemed to be allowed by law for the performance of public worship and the administration of the sacraments according to the Liturgy of the Church of England, and shall be free from the jurisdiction and control of the incumbent of the parish in which such chapel is situate.

School chapels  
appropriated for  
religious worship  
free from parochial  
jurisdiction.

Quorum of  
governing body for  
acting under this  
Act.

Persons acquiring  
interest after  
passing of Act to be  
subject to scheme.

Service of notices.

Service by post.

Expenses of Act.

Duration of powers  
of making schemes  
Repealed, 37 & 38  
Vict. c. 87, s. 7.

54.—The majority of the members of a governing body who are present at a meeting of their body duly constituted shall have power to do anything that may be required to be done by a governing body for the purposes of this Act: Provided that this power shall be in addition to and not in restraint of any power which any meeting of such governing body may have independently of this Act.

55.—Every interest, right, privilege, or preference, or increased interest, right, privilege, or preference which any person may acquire after the passing of this Act in or relative to any endowed school or educational endowment, or in the governing body thereof, or as member of any such governing body, or in 10 or relative to any mastership, office, place, employment, pension, compensation, allowance, exhibition, or emolument in the gift of any such governing body, shall be subject to the provisions of any scheme made under this Act; and the governing body of an endowed school or educational endowment shall not, during the continuance of the power of making schemes under this Act, begin to build, rebuild, or enlarge any school buildings or teachers' residences or buildings connected therewith, except with the written consent of the Commissioners, or under the direction of such a scheme, but this provision shall not prevent them from continuing any works begun before the passing of this Act, or from doing anything necessary for the repair or maintenance of buildings or 20 residences existing at the passing of this Act.

56.—Notices and documents required to be served on or sent to a governing body for the purposes of this Act may be served or sent by being left at the office, if any, of such governing body, or being served on or sent to the chairman, secretary, clerk, or other officer of such governing body, or if there is no office, chairman, secretary, clerk, or officer, or none known to the Commissioners (after reasonable inquiry), by being served on or sent to the principal teacher of the school (if any) under such governing body.

57.—Notices and documents required to be served or sent for the purposes of this Act may be served or sent by post, and shall be deemed to have been 39 served and received at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notices or documents was properly addressed and put into the post office.

58.—The salaries paid and expenses incurred in carrying into effect this Act shall be defrayed out of moneys to be provided by Parliament.

59.—*The powers of making and approving of a scheme under this Act shall not, unless continued by Parliament, be exercised after the thirty-first of December one thousand eight hundred and seventy-two, or such further day not later than the thirty-first of December one thousand eight hundred and seventy-three, as may 40 be appointed by Her Majesty in Council.*

[36 &amp; 37 VICT. CHAP. 87.]

## No. 40—An Act to continue and amend the Endowed Schools Act, 1869.

Endowed Schools Act, 1873.

[5th August, 1873.]

Repealed by Stat. Law Revision (No. 2) Act, 1893.

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:*

1.—This Act shall be construed as one with the Endowed Schools Act, 1869 (in this Act referred to as the principal Act), and *\*the principal Act and this Act may be cited together as the Endowed Schools Act, 1869 and 1873, and this Act may be cited as the Endowed Schools Act, 1873.*

Construction of Act and short title  
32 & 33 Vict. c. 56.  
\*Repealed by Stat. Law Revision (No. 2) Act, 1893.

2.—This Act shall come into operation on the first day of September one thousand eight hundred and seventy-three, which day is in this Act referred to as the commencement of this Act.

Commencement of Act.

3.—Where an endowed school, not being a grammar school as defined by the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter seventy-seven, or a department of such a grammar school, is at the commencement of this Act an elementary school within the meaning of the Elementary Education Act, 1870, and the gross average annual income of the aggregate educational endowments of such school during the three years next before such commencement did not exceed one hundred pounds, in such case after the commencement of this Act nothing in the principal Act shall apply to such school or the endowments thereof, and section seventy-five of the Elementary Education Act, 1870, shall apply to such school and the endowments thereof in like manner as if it were a school which, at the commencement of the principal Act, was in receipt of an annual Parliamentary grant, and schemes may accordingly be framed, submitted, and approved under the said section with reference to such school and endowments.

Exception of Elementary schools from 32 & 33 Vict. c. 56, and application thereto of 33 & 34 Vict. c. 73, s. 75.

Provided, that nothing in this section shall prevent the Commissioners from making, on the application of the governing body of an endowment of which part only is an educational endowment to which this section applies, a scheme dealing, in pursuance of the principal Act, with the part of such endowment applicable or applied to other charitable uses, and in such case the scheme may deal with the endowed school and endowment thereof in like manner as if this section had not been enacted.

The governing body of every school to which this section applies may, if they think fit, charge such fees to the scholars as may from time to time be approved by the Committee of Council on Education, and shall permit the school to be inspected and the scholars therein to be examined by one of Her Majesty's Inspectors of Schools at such times and in such manner as the Committee of Council on Education may from time to time direct.

\*Repealed by Stat.  
Law Revision  
(No. 2) Act, 1893.

Extension of  
Endowed Schools  
Acts to endowments  
&c., vested in Her  
Majesty in right of  
the Crown or Duchy  
of Lancaster.

The certificate of the Charity Commissioners *\*for England and Wales* that a school is or is not a school to which this section applies shall be conclusive evidence of the fact for the purposes of the principal Act and this section.

4.—Where any endowment, or any right of holding or any power of government of or management over any endowment, or any power of appointing officers, teachers, exhibitioners, or others, either in any endowed school or with emoluments out of any endowment, is vested in Her Majesty in right of her Crown or of the Duchy of Lancaster, the Endowed Schools Acts, 1869 and 1873, shall extend to such endowment, right, or powers; and the term “governing body” in those Acts shall be deemed to include Her Majesty: 10

Provided that—

- (1) Any scheme with respect to such endowment, right, or power shall not be approved by the Committee of Council on Education unless Her Majesty assent to such scheme:
- (2) All notices and documents required to be served on or sent to a governing body for the purposes of the Endowed Schools Acts, 1869 and 1873, may be served on or sent to the Lord Chancellor or the Chancellor of the Duchy of Lancaster, as the case may require:
- (3) With the consent of Her Majesty, a scheme may deal with any such right or power without saving or making due compensation therefor: 20
- (4) Any assent or consent of Her Majesty required for the purpose of the Endowed Schools Acts, 1869 and 1873, may be signified by Her Majesty's Sign Manual, countersigned by the Lord Chancellor or by the Chancellor of the Duchy of Lancaster, as the case may require:

5.—It shall be the duty of the Commissioners in every scheme to have the same regard to the educational interests of persons in a particular class in life as they are by section eleven of the principal Act required to have to the educational interests of any particular class of persons.

Amendment of  
32 & 33 Vict.  
c. 56, s. 11.

Amendment of  
32 & 33 Vict. c. 56,  
s. 17, as to holders  
of office being  
retained on  
governing body.

Extension of  
32 & 33 Vict. c. 56,  
s. 19, as to schools  
excepted from the  
provisions as to  
religion.

6.—Where under the express terms of the original instrument of foundation 30 of any endowed school or educational endowment the holder of any particular office is a member of the governing body of the school or endowment, nothing in section seventeen of the principal Act shall be deemed to prevent the holder for the time being of such office from being retained as a member of the governing body of such school or endowment.

7.—A scheme relating to any educational endowment originally given to charitable uses since the passing of the Act of the first year of the reign of William and Mary, chapter eighteen (commonly called the Toleration Act), if by the express terms of the original instrument of foundation, or of the statutes or regulations made by the founder, or under his authority in his lifetime, or within 40

fifty years after his death (which terms have been observed down to the commencement of the principal Act), it is required that the majority of the members of the governing body or that the majority of the persons electing the governing body of such endowment, or that the principal teacher employed in the school, or that the scholars educated by the endowment, shall be members of a particular church, sect, or denomination, shall be excepted from the provisions of the principal Act mentioned in section nineteen of the principal Act in like manner as a scheme mentioned in that section, and that section shall be construed as if a scheme relating to such an educational endowment as is above in this

10 section mentioned were a scheme relating to an educational endowment mentioned in sub-section two of the said section.

8.—Whereas by section twenty-five of the principal Act, it is enacted as follows :  
 "Where an endowment or part of an endowment originally given to charitable uses less than fifty years before the commencement of this Act has, by reason of having been spent on school buildings or teachers' residences, or playground or gardens attached to such buildings or residences, become so mixed with an old endowment given more than fifty years before the passing of this Act, that in the opinion of the Commissioners (subject to appeal to Her Majesty in Council) it cannot conveniently be separated from such old endowment, then the whole endowment shall for the 20 purposes of this Act be deemed to be an endowment originally given to charitable uses more than fifty years before the commencement of this Act," and it is expedient to amend the said section : Be it therefore enacted, that—

Amendment of  
32 & 33 Vict. c. 56,  
s. 25, as to new  
endowment mixed  
with old buildings.

Repealed by Statute  
Law Revision  
(No. 2) Act, 1893.

Where it appears to the Commissioners (subject to appeal to Her Majesty in Council) that the endowment originally given less than fifty years before the commencement of the principal Act is in value not less than the old endowment and was given under the belief that the old endowment was attached to some particular church, sect, or denomination, a scheme relating to such endowment shall provide for the giving of religious instruction to the scholars belonging to such church, sect, or denomination.

30 9.—Where two or more schools are jointly interested in an educational endowment, and one of such schools is a school mentioned in section three of "The Public Schools Act, 1868," the Commissioners shall not, without the consent of the Special Commissioners for the time being under "The Public Schools Act, 1868," deal by any scheme with the interest of such last-mentioned school in the endowment, but, with the consent of those Commissioners to the dealing with such interest, may, by a scheme under the principal Act, deal with such interest as well as with all other interests in such endowment.

Schema as to  
endowments, in  
which schools under  
31 & 32 Vict. c. 118  
are interested.  
Repealed by Stat.  
Law Revision Act,  
1883.

10.—A provision inserted in pursuance of section twenty-eight of the principal Act in any scheme, whether made before or after the passing of this Act, shall not be deemed to give the Charity Commissioners \*for England and Wales any power to alter any portions of such scheme except by a scheme established in pursuance of the Acts for the time being in force relating to such Charity Commissioners, or any of those Acts, and upon the same application, and after

Explanation of  
32 & 33 Vict. c. 56,  
s. 28, as to alteration  
of schemes.  
\*Repealed by Stat.  
Law Revision  
(No. 2) Act, 1893.

the same procedure and notices, and subject to the same right of appeal as a scheme established under those Acts by the Charity Commissioners in the exercise of their ordinary jurisdiction.

Alteration of  
religious instruction.

11.—Where a scheme under the principal Act gives the governing body of any endowed school power to make regulations respecting the religious instruction given at such school, the scheme shall also provide for any alteration in such regulations not taking effect until the expiration of not less than one year after notice of the making of the alteration is given.

Amendment of  
32 & 33 Vict. c. 56,  
ss. 34 to 36, as to  
time for objections  
to schemes.

12.—\*Whereas by section thirty-four of the principal Act it is provided as follows: “During three months after the first publication of the draft of a scheme the Commissioners shall receive any objections or suggestions made to them in writing respecting such scheme, and shall receive any alternative scheme submitted to them by the governing body of any endowment to which the scheme of the Commissioners relates;” and it is expedient to reduce the said period of three months to two months:

\*Be it therefore enacted, that—

“Two months” shall be substituted for “three months” in the said section and all references in the principal Act to the said three months shall be construed to refer to the said two months.

Amendment of  
32 & 33 Vict. c. 56,  
s. 37, as to approval  
of Committee of  
Council on Educa-  
tion to schemes.

13.—The Committee of Council on Education as soon as a scheme is submitted to them shall, before approving the same, cause the scheme to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that during one month after the first publication of such notice the Committee of Council on Education will receive any objections or suggestions made to them in writing respecting such scheme.

After the expiration of the said month the Committee of Council on Education may, if they think fit, approve the scheme or may remit the scheme, with such declaration as the nature of the case seems to them to require, to the Commissioners; and section forty of the principal Act, as to the proceedings where a scheme is remitted with a declaration, shall in such case apply.

The Committee of Council on Education as soon as they approve a scheme shall forthwith cause the scheme so approved to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that unless within two months after the publication of the scheme when approved a petition is presented in pursuance of the principal Act to Her Majesty in Council against the scheme, or such petition as in this section mentioned is presented to the Committee of Council on Education, such scheme may be approved by Her Majesty without being laid before Parliament.

During the said two months a petition praying that the scheme may be laid before Parliament may be presented to the Committee of Council on Educa-

tion by the governing body of the endowment to which the scheme relates, or by the council of any municipal borough directly affected by the scheme, or by any inhabitant ratepayers (not less than twenty) of any municipal borough or place directly affected by the scheme.

14.—\* *Whereas, by section thirty-nine of the principal Act it is provided that Her Majes'y may by order in Council refer any petition to Her Majesty in Councel for the consideration and advice of five members at the least of her Privy Council, of whom two, not including the Lord President, shall be members of the Judicial Committee, and it is expedient to provide that such petition should be heard by persons of legal experience; Be it therefore enacted, that—*

Amendment of  
32 & 33 Vict. c. 56,  
s. 39, as to appeal  
to Queen in Council.

\*Repealed by Stat.  
Law Revision  
(No. 2, Act, 1893).

Every \*such petition to Her Majesty in Council in pursuance of section thirty-nine of the principal Act shall be referred to the Judicial Committee of Her Majesty's Privy Council in like manner as if it were an appeal from a court from which an appeal lies to Her Majesty in Council, and the Judicial Committee shall hear and deal with such petitions in like manner as such appeals, and shall have the same power with respect to the costs of parties to the petition and otherwise as they have with respect to any such appeal, and shall make to Her Majesty a report or recommendation thereon (the nature of which shall be stated in open court) in like manner as in the case of any such appeal.

*Any power by the Supreme Court of Judicature Act, 1873, conferred on Her Majesty of directing that appeals which ought to be heard by the Judicial Committee shall be heard by the appellate branch of such Court shall, if Her Majesty in Council thinks fit so to direct, apply to petitions presented in pursuance of the said section thirty-nine in like manner as if they were appeals, and if either an Order in Council relating to other appeals or any separate Order in Council direct that such petitions be referred for hearing to and be heard by the appellate branch of the said Court, the same shall be referred to and heard by that branch of the Court accordingly.*

Repealed by Statute  
Law Revision Act,  
1883.

15.—If, at the expiration of the time for a petition to Her Majesty in Council against any scheme, no such petition has been presented, and no petition praying that the scheme be laid before Parliament has been presented in pursuance of this Act to the Committee of Council on Education, it shall be lawful for Her Majesty by Order in Council do declare her approbation of such scheme without the same being laid before Parliament.

Laying of schemes  
before Parliament,  
and approval of Her  
Majesty in Council.

If any such petition has been presented, the scheme shall be laid before both Houses of Parliament, and shall be so laid forthwith, if Parliament is then sitting, after the expiration of the time for the presentation of a petition to Her Majesty in Council, or (if a petition is presented to Her Majesty in Council against the scheme) after any later date at which the petition is withdrawn, or Her Majesty in Council directs the scheme to be laid before Parliament, and if Parliament be not then sitting, shall be so laid within three weeks after the beginning of the next ensuing session of Parliament; and if such scheme has

lain before Parliament for not less than two months during the same session, then unless an address has been presented within such two months by one or other of the Houses of Parliament praying Her Majesty to withhold her consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme or any part thereof to which such address does not relate.

Annual Report.

16.—The Commissioners shall make to the Committee of Council on Education in every year a report of their proceedings under the principal Act and this Act, and such report shall be laid before Parliament. Such report shall describe all schemes not laid before Parliament which have been approved by <sup>10</sup> Her Majesty during the year for which such report is made.

Continuance of  
powers of making  
schemes.  
Repealed, 37 & 38  
Vic. c. 87, s. 7.

17.—*The power of making and approving a scheme under the principal Act as amended by this Act shall continue as respects unopposed schemes until thirty-first December one thousand eight hundred and seventy-four, and as respects schemes against which a petition shall have been presented to the Committee of Council on Education, as in this Act provided, until the fifteenth August one thousand eight hundred and seventy-four, and no longer.*

Graduate of any  
university of the  
United Kingdom, if  
otherwise fit, shall  
be held qualified  
where the statutes  
require the head  
master to be a  
graduate of Oxford  
or Cambridge.

18.—Whenever according to the rules, regulations, statutes, trusts, or constitution of any school, being an endowed school within the meaning of "The Endowed Schools Act, 1869," and with regard to which the said Commissioners <sup>20</sup> are thereby empowered to make a new scheme, the head master or any other master is required to be a graduate of some specified university or universities, a graduate of any university of the United Kingdom having the degree which would be a qualification if it had been granted by one of the said specified universities, shall in future, if otherwise qualified, be eligible as such head master or other master.

Application of Act  
to schemes laid  
before Parliament  
during present  
session.  
Repealed by Statute  
Law Revision Act,  
1883.

19.—*Where a scheme has been laid before Parliament during the present session, but has not at the expiration of such session lain for forty days before Parliament, and no address has been presented by either House of Parliament praying Her Majesty to withhold her consent from such scheme or any part thereof, the Committee of Council <sup>30</sup> on Education may, if they think fit, cause to be published and circulated, in such manner as they think sufficient for giving information to all persons interested, a notice stating that unless within two months after the first publication of the notice such petition as is in this section mentioned is presented to the Committee of Council on Education such scheme may be forthwith approved by Her Majesty.*

*During the said two months a petition praying that the scheme may lie before Parliament during two months as directed by this Act may be presented to the Committee of Council on Education by any governing body, council, or ratepayers, who would, if such scheme were approved by such Committee after the commencement of this Act, be authorised by this Act to present a petition praying that such scheme may be <sup>40</sup> laid before Parliament.*

*If no such petition is presented within the said two months it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme in like manner as if it had lain for forty days before Parliament in accordance with the principal Act.*

*Any scheme to which this section applies and which is not approved by Her Majesty under this section shall continue to lie before Parliament, and the provisions of this Act shall apply in like manner as if such scheme had been laid before Parliament in pursuance of this Act.*

20.—*The principal Act is hereby repealed as from the commencement of this Act to the extent mentioned in the third column of the schedule to this Act: Provided, that this repeal shall not—*

- (a) *Affect anything duly done or suffered under any enactment hereby repealed; or*
- (b) *Affect any right, obligation, or liability acquired or incurred under any such enactment; or*
- (c) *Affect any legal proceeding or remedy in respect of such right, obligation, or liability.*

Repeal.  
Repealed by Stat.  
Law Revision Act,  
1883.

#### SCHEDULE.

20 A description or citation of a portion of an Act is inclusive of the words or other part first or last mentioned or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Repealed by Statute  
Law Revision Act,  
1883.

| Session and Chapter. | Title.                                | Extent of Repeal.   |
|----------------------|---------------------------------------|---|
| 32 & 33 Vict. c. 56  | <i>The Endowed Schools Act, 1869.</i> | Section thirty-seven down to "all persons interested," section thirty-nine from "Her Majesty by Order in Council may refer any such petition," down to "information for obtaining a scheme," and section forty-one, except as regards schemes which have lain for forty days before Parliament before the commencement of this Act. |

[37 &amp; 38 Vict. Ch. 87.]

Endowed Schools  
Act, 1874.Repealed by Statute  
Law Revision  
(No. 2) Act, 1893.

## No. 41.—An Act to amend the Endowed Schools Acts.

[7th August 1874.]

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled and by the authority of the same, as follows:—*

*Transfer of Powers.*Transfer of powers  
of Endowed Schools  
Commissioners to  
Charity  
Commissioners.Repealed by Statute  
Law Revision Act,  
1883.Power to add to  
Charity Commis-  
sioners.\*Repealed by Statute  
Law Revision (No. 2)  
Act, 1893.

1.—\*On and after the thirty-first day of December one thousand eight hundred and seventy-four all powers and duties by the Endowed Schools Acts vested in or imposed on the Endowed Schools Commissioners shall be transferred to and imposed on the Charity Commissioners, and, except as otherwise provided by this Act, shall be exercised and performed by the Charity Commissioners in like manner and form and subject to the same conditions, liabilities, and incidents respectively as such powers and duties have been exercised and performed by the Endowed Schools Commissioners, or as near thereto as circumstances permit.

*On and after the thirty-first day of December one thousand eight hundred and seventy-four the Commissioners, secretary, assistant commissioners, and other persons appointed and employed in pursuance of the Endowed Schools Acts shall cease to hold office.*

2.—Her Majesty \*and her successors may at any time \*after the passing of this Act, by warrant under her sign manual, from time to time appoint any number of persons not exceeding two to be paid Charity Commissioners for England and Wales and a person to be secretary in addition to the three paid Charity Commissioners and secretary capable of being appointed under the Charitable Trusts Acts, 1853 to 1869. The two additional Commissioners and additional secretary appointed in pursuance of this Act shall hold office during Her Majesty's pleasure, and their salaries shall, unless otherwise directed by Parliament, cease to be paid after the expiration of five years from the said thirty-first day of December one thousand eight hundred and seventy-four.

Save as in this section mentioned, the additional Commissioners shall have the same powers, perform the same duties, and stand in all respects in the same position as the other paid Charity Commissioners with the exception of the Chief Commissioner.

The \*Commissioners of Her Majesty's Treasury may allow the Charity Commissioners to employ such number of assistant commissioners, officers, and clerks as the \*Commissioners of Her Majesty's Treasury may think necessary for the purpose of enabling the said Charity Commissioners to perform the additional duties imposed upon them by this Act.

3.—*There shall be repealed so much of the Charitable Trusts Acts, 1853 to 1869, as regulates the amounts of the salaries of the Commissioners, their secretary, and inspectors; and there shall be paid to the Commissioners, their secretary or secretaries, assistant commissioners, inspectors, officers, and clerks, whether appointed under this Act or under the said Charitable Trusts Acts, out of moneys provided by Parliament, such salaries as the Treasury may from time to time determine: Provided that no decrease shall be made in pursuance of this section in the salary of any Charity Commissioner, secretary, inspector, officer, or clerk appointed before the passing of this Act under the said Charitable Trusts Acts, or any of them.*

Salaries of Charity Commissioners and their officers.  
Repealed by Statute Law Revision Act 1883.

*Amendment of Law.*

4.—Any power by the Endowed Schools Act, 1869, vested in the Charity Commissioners, upon application made to them by the Commissioners under the said Act, may *after the said thirty-first day of December, one thousand eight hundred and seventy-four* be exercised by the Charity Commissioners of their own motion.

Exercise of certain powers by Charity Commissioners.  
Repealed by Statute Law Rev. (No. 2) Act, 1893.

5.—A scheme of the Charity Commissioners made in pursuance of the powers of this Act and the Endowed Schools Acts, or any of them, shall not be submitted to the Committee of Council on Education unless it has been approved at a meeting of the Board at which there are present not less than three Commissioners (of whom one shall be the Chief Commissioner, or, in his absence from illness or unavoidable cause, such other Charity Commissioner as may for the time being be named by the Committee of Council on Education); in all other respects one Charity Commissioner may act under the Endowed Schools Acts as amended by this Act.

Quorum of Commissioners.

*Miscellaneous and Repeal.*

6.—The powers of making schemes under the Endowed Schools Acts as amended by this Act shall continue in force for a period of five years from the said thirty-first day of December, one thousand eight hundred and seventy-four; and during the continuance of such powers any court or judge shall not, with respect to any endowed school or educational endowment which can be dealt with by a scheme under this Act and the Endowed Schools Acts, or any of such Acts, make any scheme or appoint any new trustees without the consent of the Committee of Council on Education.

Continuance of powers transferred to Charity Commissioners.

7.—*On and after the said thirty-first day of December, one thousand eight hundred and seventy-four the enactments set forth in the schedule annexed hereto shall be repealed to the extent to which such enactments are therein expressed to be repealed.*

Repeal of Acts.  
Repealed by Statute Law Revision Act, 1883.

*Provided that the repeal enacted in this Act shall not affect—*

- (1.) *Anything duly done under any enactment hereby repealed:*
- (2.) *Any right or privilege acquired or any liability incurred under any enactment hereby repealed.*

Saving clause as to  
certain schemes.  
Repealed by Statute  
Law Revision Act,  
1883.

8.—*Notwithstanding the seventeenth section of the Endowed Schools Act, 1873, any scheme which has before the passing of this Act been submitted by the Endowed Schools Commissioners to the Committee of Council on Education for approval may be proceeded with.*

*Provided, that with respect to every such scheme which has not been approved by the Committee of Council on Education before the passing of this Act, such Committee shall before approving the same cause such scheme, after the passing of this Act, and that notwithstanding any prior publication and notice, to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that during one month after the publication of such notice the Committee of Council on Education will receive any objections or suggestions made to them in writing respecting such scheme.* 10

Definitions.

9.—In this Act, so far as is consistent with the context, the expressions following have the meanings hereafter assigned to them; that is to say,

The expression “The Endowed Schools Acts” means the Endowed Schools Acts, 1869 and 1873:

The expression “The Endowed Schools Commissioners” means the Commissioners appointed in pursuance of the Endowed Schools Act, 1869:

*The expression “The Charity Commissioners” means the Charity Commissioners for England and Wales.* 20

Repealed by Statute  
Law Revision  
(No. 2) Act, 1893.

Construction and  
short title.

Repealed by Statute  
Law Revision  
(No. 2) Act, 1893.

10.—This Act, so far as consistent with the tenor thereof, shall be construed as one with the Endowed Schools Acts, as amended by this Act; and in the construction of the Endowed Schools Acts the expression “the Commissioners” shall, unless there is something in the context inconsistent therewith, *on and after the said thirty-first day of December one thousand eight hundred and seventy-four, mean the Charity Commissioner; and this Act and the other Acts mentioned in this section may be cited together as the Endowed Schools Acts, 1869, 1873, and 1874, and this Act may be cited separately as “The Endowed Schools Act, 1874.”*

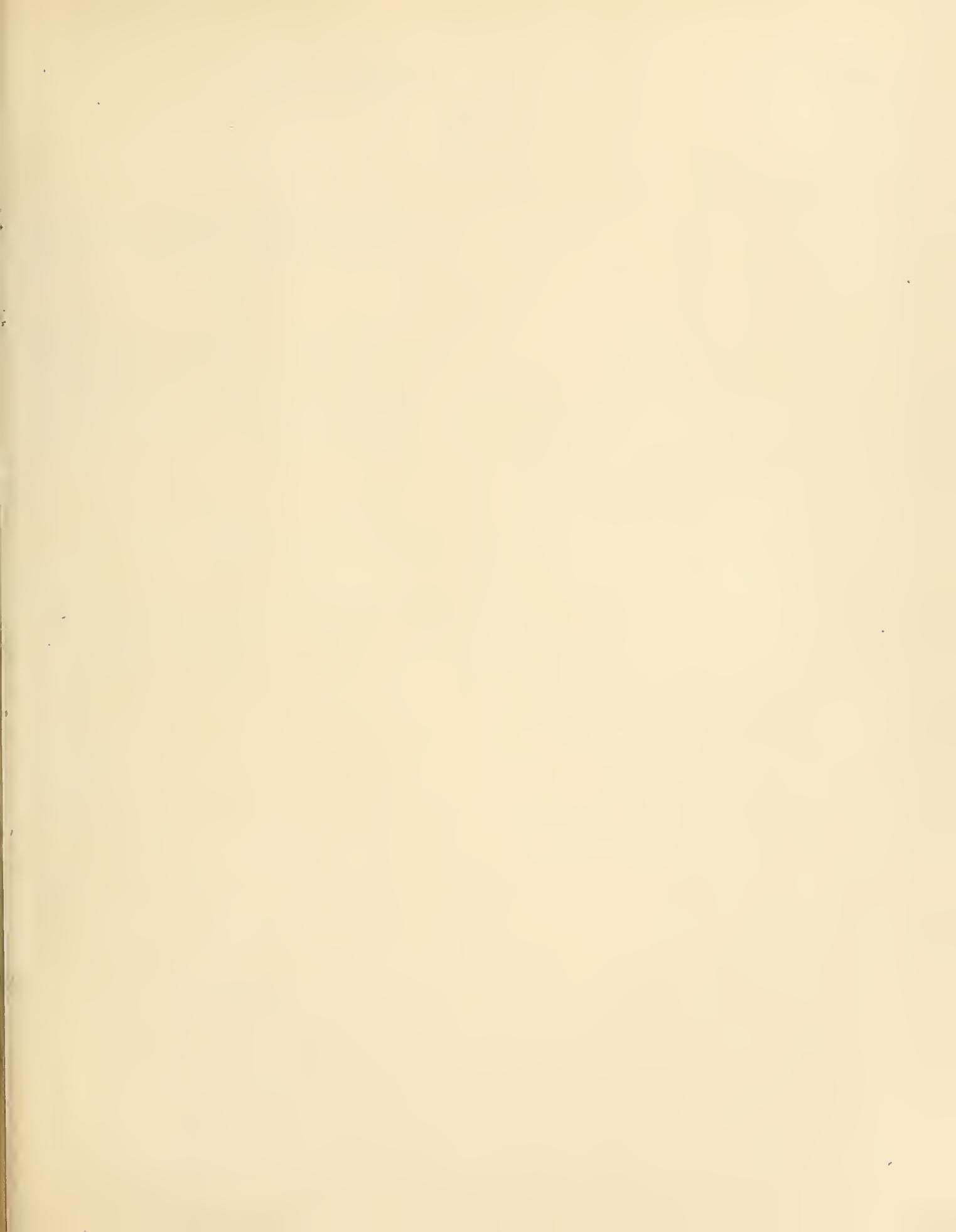
30

#### SCHEDULE.

Repealed by Statute  
Law Revision Act,  
1883.

*Lets partly repealed on and after the thirty-first day of December one thousand eight hundred and seventy-four.*

| Session and Chapter. | Abbreviated Title.                    | Extent of Repeal.   |
|----------------------|---------------------------------------|---|
| 32 & 33 Vict. c. 56. | <i>The Endowed Schools Act, 1869.</i> | <i>The first paragraph of section fifty-two, and the whole of sections thirty-one, forty-eight, and fifty-nine.</i> |
| 36 & 37 Vict. c. 87. | <i>The Endowed Schools Act, 1873.</i> | <i>Section seventeen.</i>   |



In the Privy Council.

*In the Matter of* THE ENDOWED SCHOOLS  
ACTS, 1869, 1873, and 1874

AND

*In the Matter of* A SCHEME FOR THE  
ADMINISTRATION OF THE FOUN-  
DATION KNOWN AS THE GRAMMAR  
SCHOOL IN THE BOROUGH OF  
COLCHESTER.

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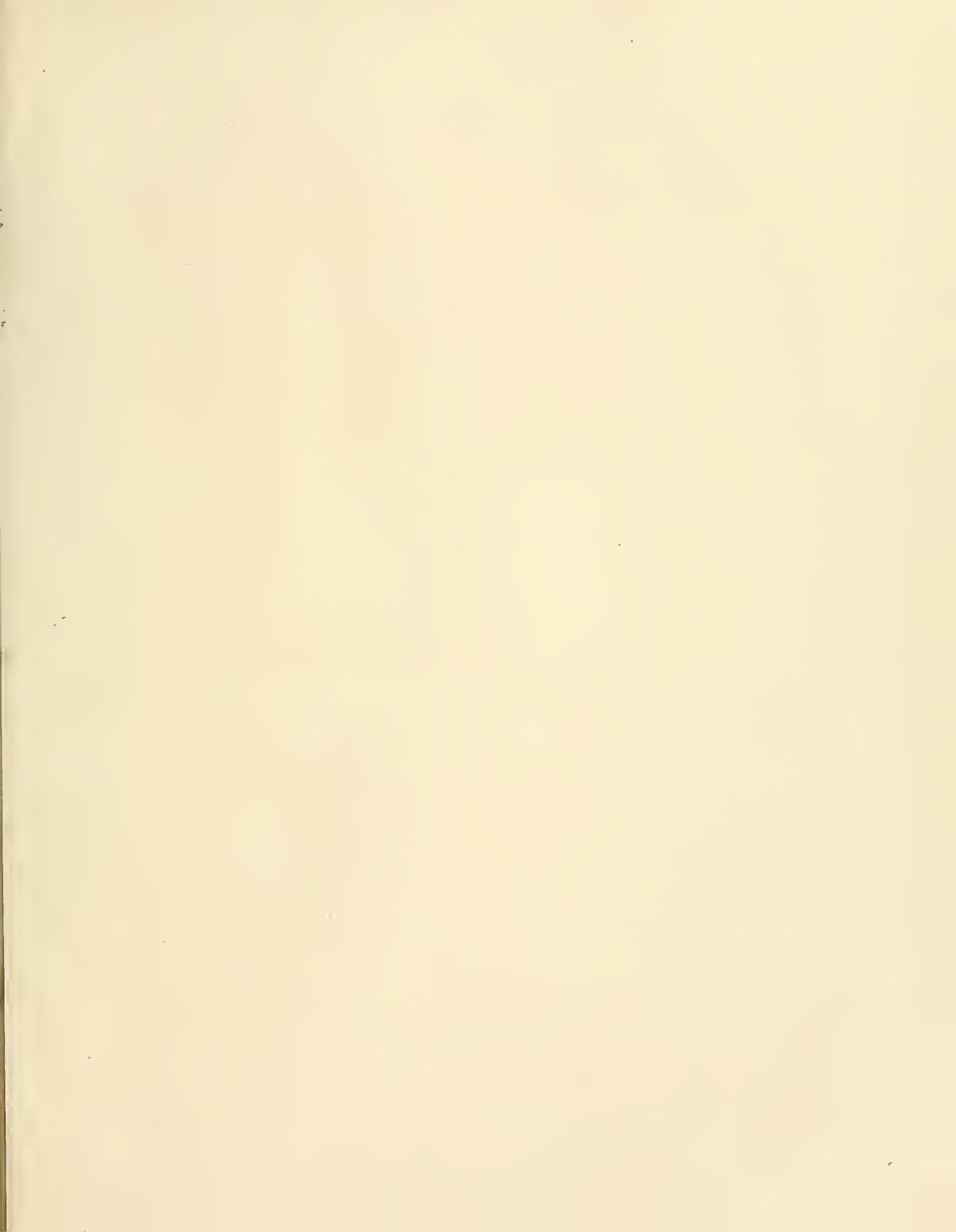
JOINT APPENDIX.

SHEPHEARDS,  
31, and 32, Finsbury Circus, E.C.

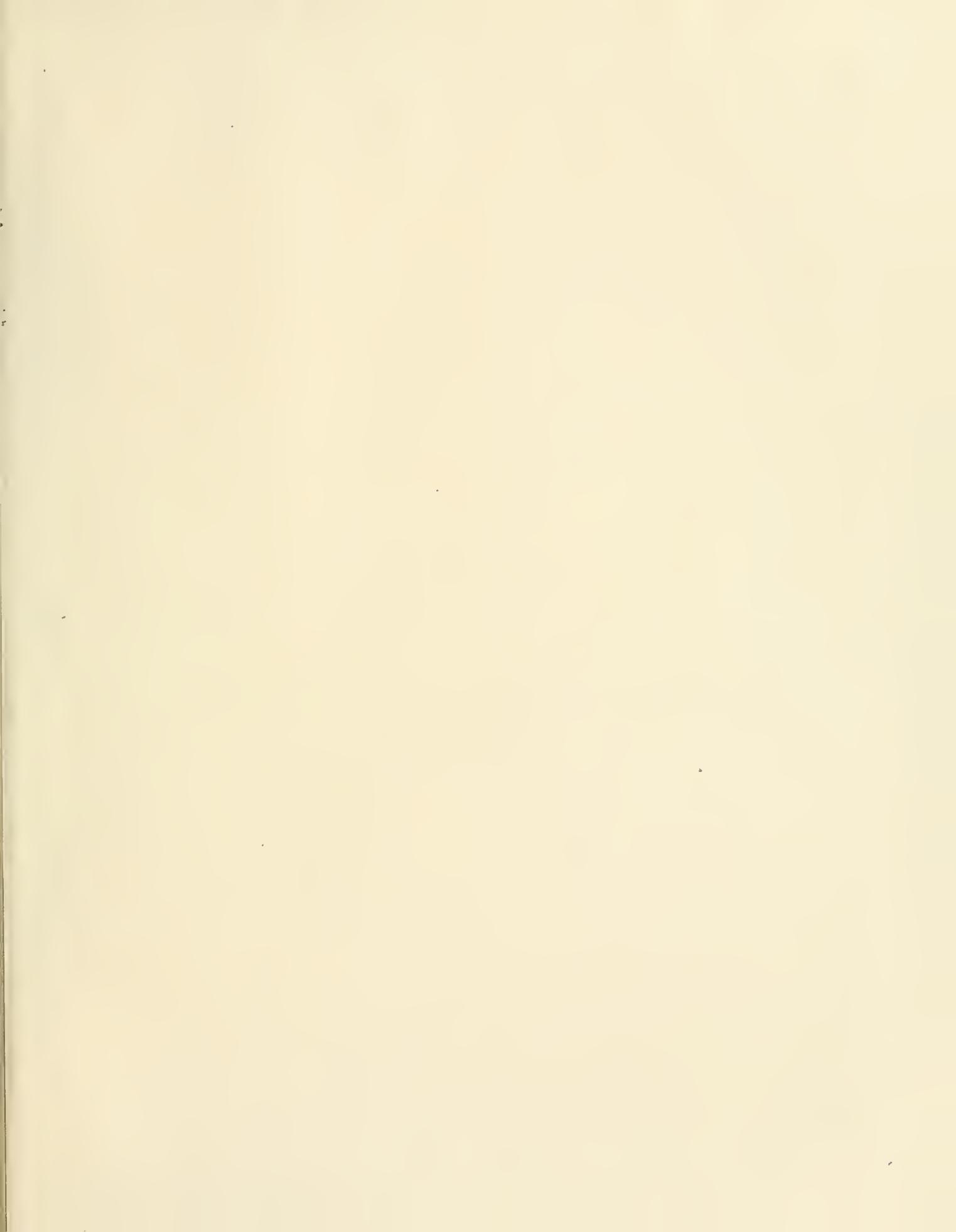
*Solicitors for the Petitioners.*

FARRER & CO.,  
66, Lincoln's Fields, W.C.

*Solicitors for the Respondents.*











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